



AGENDA

BOARD OF SUPERVISORS, COUNTY OF MONO STATE OF CALIFORNIA

Regular Meetings: First, Second, and Third Tuesday of each month. Location of meeting is specified below.
Meeting Location: Board Chambers, 2nd Fl., County Courthouse, 278 Main St., Bridgeport, CA 93517

Regular Meeting August 1, 2023

TELECONFERENCE INFORMATION

This meeting will be held in person at the location listed above. Additionally, a teleconference location will be available where the public and members of the Board may participate by electronic means.

1. Mammoth Teleconference Location – for meetings held on the first and second Tuesday of each month - Mono Lake Room of the Mono County Civic Center, First Floor, 1290 Tavern Road, Mammoth Lakes, CA. 93546;
2. Bridgeport Teleconference Location – for meetings held on the third Tuesday of each Month - Mono County Courthouse, Second Floor Board Chambers, 278 Main Street, Bridgeport, CA. 93517;
3. Supervisor Gardner Teleconference Location - 1631 NW 198th St, Shoreline, WA 98177;
4. Zoom Webinar.

Members of the public may participate via the Zoom Webinar, including listening to the meeting and providing public comment, by following the instructions below.

To join the meeting by computer:

Visit <https://monocounty.zoom.us/j/81908943661> or visit <https://www.zoom.us/>, click on "Join A Meeting" and enter the Zoom Webinar ID 819 0894 3661.

To provide public comment, press the "Raise Hand" button on your screen.

To join the meeting by telephone:

Dial (669) 900-6833, then enter Zoom Webinar 819 0894 3661.

To provide public comment, press *9 to raise your hand and *6 to mute/unmute.

If you are unable to join the Zoom Webinar of the Board meeting, you may still view the live stream of the meeting by visiting: https://monocounty.granicus.com/MediaPlayer.php?publish_id=e7d204c7-e668-44f4-be12-b19e6bd13e27

NOTE: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Clerk of the Board at (760) 932-5530 or bos@mono.ca.gov. Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting (See 42 USCS 12132, 28CFR 35.130).

Full agenda packets are available for the public to review in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517) and online at <http://monocounty.ca.gov/bos>. Any writing distributed less than 72 hours prior to the meeting will be available for public inspection in the Office of the Clerk of the Board and online.

UNLESS OTHERWISE SPECIFIED BY TIME, ITEMS SCHEDULED FOR EITHER THE MORNING OR AFTERNOON SESSIONS WILL BE HEARD ACCORDING TO AVAILABLE TIME AND PRESENCE OF INTERESTED PERSONS. PUBLIC MAY COMMENT ON AGENDA ITEMS AT THE TIME THE ITEM IS HEARD.

9:00 AM Call meeting to Order

Pledge of Allegiance

1. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Opportunity for the public to address the Board on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.) Please refer to the Teleconference Information section to determine how to make public comment for this meeting via Zoom.

2. RECOGNITIONS

A. Eastern Sierra Child Support Recognition

Departments: County Administrative Office

5 minutes

(Mary Booher, Interim County Administrative Officer and Amy Weurdig, Regional Director Eastern Sierra Child Support Services) - Proposed proclamation recognizing August as Child Support Awareness Month and honoring Eastern Sierra Department of Child Support Services for achieving the highest percentage of Support Orders Established for similar-sized agencies.

Recommended Action: Adopt proposed proclamation recognizing August as Child Support Awareness Month and honoring Eastern Sierra Department of Child Support Services for achieving the highest percentage of Support Orders Established for similar-sized agencies.

Fiscal Impact: None.

B. Retirement Recognition of Pat Espinosa for Her Years of Service with Mono County

Departments: Social Services

10 minutes

(Kathy Peterson, Social Services Director; Krista Cooper, Social Worker Supervisor; Michelle Raust, Program Manager, Child, and Adult Services) - Proposed proclamation of the Mono County Board of Supervisors recognizing Pat Espinosa for her years of service to Mono County and the Department of Social Services as the Senior Services Manager for northern Mono County communities.

Recommended Action: Adopt proposed proclamation recognizing Pat

Espinosa for her years of service to Mono County and the Department of Social Services as the Senior Services Manager for northern Mono County communities. Provide any desired direction to staff.

Fiscal Impact: None.

3. COUNTY ADMINISTRATIVE OFFICER

CAO Report regarding Board Assignments
Receive brief oral report by County Administrative Officer (CAO) regarding work activities.

4. DEPARTMENT/COMMISSION REPORTS

Receive brief oral report on emerging issues and/or activities.

5. CONSENT AGENDA

(All matters on the consent agenda are to be approved on one motion unless a board member requests separate action on a specific item.)

A. Reappointment to Assessment Appeals Board

Departments: Clerk of the Board

Reappointment of one regular member to the Mono County Assessment Appeals Board.

Recommended Action: Reappoint Richard Liebersbach as a regular member of the Assessment Appeals Board for a three-year term effective September 4, 2023, through September 3, 2026.

Fiscal Impact: None.

B. Resolution Approving Department of State Hospitals Grant

Departments: Probation

Proposed resolution approving entry into grant agreement with the Department of State Hospitals for funding to provide psychiatric, and/or competency restoration services for justice involved clients.

Recommended Action: Approve the proposed resolution and authorize the County Administrative Officer on behalf of the Mono County Board of Supervisors to sign the grant agreement with the Department of State Hospitals.

Fiscal Impact: The total grant amount is \$500,000 for five years with \$100,000 per fiscal year beginning with FY 2022-23.

C. Amendment to Contract with County of Inyo for an Increase in Funds Related to the Senior Services Program

Departments: Social Services

Amendment #1 to contract between County of Inyo and County of Mono for an increase in funds related to the Senior Services Program for period ending FY 2023-24.

Recommended Action: Approve the proposed contract Amendment #1 to the contract with Inyo County for senior services for the period July 1, 2020, through June 30, 2024, and authorize the Board Chair to execute such Amendment on behalf of the County.

Fiscal Impact: The proposed contract amendment provides an overall increase in funding for Mono County for fiscal years 2022-23 and 2023-24. The total contract limit amount for July 1, 2020, through June 30, 2024, is increased from \$600,000 to \$660,136, an increase of \$60,136.

D. Amendment to North American Mental Health Services (NAMHS) Contract

Departments: Behavioral Health

Proposed amendment to contract with North American Mental Health Services (NAMHS) pertaining to Tele-psychiatry and Telehealth Services.

Recommended Action: Approve, and authorize Chair to sign, contract amendment with North American Mental Health Services for the addition of authorized travel to the scope of work and schedule of fees for the period October 1, 2022, through September 30, 2025.

Fiscal Impact: No additional fiscal impact to the contract. The current contract limit is \$420,000 per 12-month period.

E. Cancellation of September 19, 2023, Regular Meeting of the Board of Supervisors

Departments: County Administrative Office

Cancellation of the September 19, 2023, Board of Supervisors regular meeting, so that Board members can attend the Rural County Representatives of California meeting.

Recommended Action: Approve the cancellation of the September 19, 2023, Board of Supervisors regular meeting.

Fiscal Impact: None.

F. Agreement with Boxx Modular, Inc.

Departments: Public Works - Solid Waste

Proposed contract with Boxx Modular, Inc. pertaining to purchase and installation of a modular gatehouse at Pumice Valley.

Recommended Action: Approve and authorize Director of Public Works to sign

contract and any change orders with Boxx Modular, Inc. for the purchase of a Gatehouse modular structure for the period January 1, 2023, through December 31, 2023, and to pay added sales taxes and provide for work on site to secure the modular structure in a total amount up to \$270,000.

Fiscal Impact: The maximum amount payable to Boxx Modular, Inc. is \$250,000, with an additional \$20,000 estimated to cover sales tax and site preparation work, to be paid from the Solid Waste Enterprise Fund.

G. Cost Share Agreement Related to 2023 Winter Storms

Departments: County Administrative Office

Proposed Cost-Share agreement for 2023 Winter Storm Emergency with the Town of Mammoth Lakes, Inyo County, and the City of Bishop.

Recommended Action: Approve, and authorize Chair to sign, Cost-Share agreement.

Fiscal Impact: The agreement provides a methodology and process of sharing Emergency Operations Center (EOC) related expenditures including the costs of personnel, services and supplies, and filing for reimbursement with Federal Emergency Management Agency/California Governor's Office of Emergency Services (FEMA/CalOES). It excludes the cost sharing of each jurisdiction's own existing permanent personnel.

H. FY 2023-24 Boating Safety and Enforcement Financial Aid Program Application

Departments: Sheriff

The Board of Supervisors approved Resolution 23-002 on January 17, 2023, authorizing the Mono County Sheriff-Coroner, Mono County Sheriff's Office Emergency Services Coordinator, and/or the Mono County Sheriff's Office Finance Officer to apply for and administer the Boating Safety and Enforcement Financial Aid Program Agreement for FY 2023/24. The California Department of Parks and Recreation, Division of Boating and Waterways, requested that additional language be added to Section Three of the Resolution to read: "The County Auditor shall be authorized to certify the amount of prior year vessel taxes received by the county." The proposed resolution makes that change, is otherwise identical to R23-002, and would supersede and replace R23-002.

Recommended Action: Adopt proposed resolution authorizing the Mono County Sheriff-Coroner, Mono County Sheriff's Office Emergency Services Coordinator, and/or the Mono County Sheriff's Office Finance Officer to apply for and administer the Boating Safety and Enforcement Financial Aid Program Agreement for FY 2023/24 and superseding and replacing prior Resolution R23-002.

Fiscal Impact: The award will not exceed \$136,017. There is no match requirement for this grant. In previous years, this grant was used to pay on-going

costs associated with regular boating patrol on 23 lakes and to enforce California boating laws applicable to our area. Past grant expenditures include salaries, overtime, benefits, maintenance, supplies, training, vehicle expenses, utilities, and occasionally replacement of equipment. Costs incurred and not covered by the grant are transferred to the Sheriff's budget.

6. CORRESPONDENCE RECEIVED - NONE

Direction may be given to staff regarding, and/or the Board may discuss, any item of correspondence listed on the agenda.

7. REGULAR AGENDA - MORNING

A. Emergency Repair Benton Crossing Road and Northshore Drive

Departments: Public Works - Engineering

10 minutes

(Chad Senior, Engineer and Paul Roten, Public Works Director) - Proposed resolution to contract emergency repairs for Benton Crossing Road and Northshore Drive.

Recommended Action: Adopt proposed resolution. Provide any desired direction to staff.

Fiscal Impact: Funded by SB1, with potential for reimbursement by CalOES or FEMA.

B. Employment Agreement - Jeffrey T. Hughes

Departments: County Counsel

5 minutes

(Stacey Simon, County Counsel) - Proposed resolution approving a contract with Jeffrey T. Hughes as Deputy County Counsel, and prescribing the compensation, appointment, and conditions of said employment.

Recommended Action: Announce Fiscal Impact. Adopt proposed resolution approving a contract with Jeffrey T. Hughes as Deputy County Counsel, and prescribing the compensation, appointment, and conditions of said employment. Authorize the Board Chair to execute said contract on behalf of the County.

Fiscal Impact: The estimated cost of this position for the remainder of the fiscal year is \$153,205, of which \$105,631 is salary and \$47,574 is benefits. The total cost of salary and benefits for an entire fiscal year is approximately \$169,923, of which \$117,547 is salary and \$52,376 is benefits. Of these amounts, up to \$5,000 is a moving cost reimbursement and is non-recurring after the first year. This is included in the County Counsel preliminary FY 2023/24 budget.

C. Contract Indigent Defense Services

Departments: County Administrative Office

10 minutes

(Mary Booher, Interim County Administrative Officer) - Authorization to release request for Proposals (RFP) for indigent defense services.

Recommended Action: Direct staff to finalize and issue an RFP for indigent defense services.

Fiscal Impact: Unknown until RFP responses received. Preliminary budget is for \$700,000, which covers three public defenders, investigators, and other contract costs related to indigent defense services.

D. Mono County Jail Facility - Update

Departments: Public Works

10 minutes

(Paul Roten, Public Works Director) - Presentation by Paul Roten regarding the progress on Mono County Jail construction on Twin Lakes Road in Bridgeport.

Recommended Action: None, informational only.

Fiscal Impact: None.

E. Department Overview - Information Technology

Departments: Information Technology

30 minutes

(Milan Salva, Interim IT Director) - Presentation by Milan Salva, Interim IT Director, to update the Board of Supervisors and public on Information Technology operations, goals, and objectives.

Recommended Action: None, informational only. Provide any desired direction to staff.

Fiscal Impact: None.

F. Department Overview - Community Development

Departments: Community Development

20 minutes

(Wendy Sugimura, Community Development Director; Brent Calloway, Principal Planner; Nick Criss, Compliance Officer) - Presentation regarding an overview of Community Development Department functions and services.

Recommended Action: None, informational only. Provide any direction to staff.

Fiscal Impact: None.

8. CLOSED SESSION

A. Closed Session - Labor Negotiations

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Mary Booher, Stacey Simon, Janet Dutcher, Jack Conry, and Oliver Yee. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39 - majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Correctional Deputy Sheriffs' Association. Unrepresented employees: All.

B. Closed Session – Real Property Negotiation

CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Government Code section 54956.8. Property Address: 34 Kirkwood Street, Bridgeport, CA. County Negotiator: Mary Booher. Negotiating Parties: Brianna Brown and County of Mono. Under Negotiation: Price, terms and conditions.

C. Closed Session – Real Property Negotiation

CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Government Code section 54956.8. Property Address: 264 Highway 182, Bridgeport, CA County Negotiator: Mary Booher. Negotiating Parties: Garth Moore and County of Mono. Under Negotiation: Price, terms and conditions.

D. Closed Session - Existing Litigation

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION. Paragraph (1) of subdivision (d) of Government Code section 54956.9. Name of case: *Villanueva v. Mammoth Unified School District et al.*, Mono County Superior Court Case No.: 22UCM99.

E. Closed Session - Public Employee Evaluation

PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: Interim County Administrative Officer.

9. BOARD MEMBER REPORTS

The Board may, if time permits, take Board Reports at any time during the meeting and not at a specific time.

ADJOURN



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: County Administrative Office

TIME REQUIRED 5 minutes

SUBJECT Eastern Sierra Child Support
Recognition

**PERSONS
APPEARING
BEFORE THE
BOARD**

Mary Booher, Interim County
Administrative Officer and Amy
Weurdig, Regional Director Eastern
Sierra Child Support Services

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed proclamation recognizing August as Child Support Awareness Month and honoring Eastern Sierra Department of Child Support Services for achieving the highest percentage of Support Orders Established for similar-sized agencies.

RECOMMENDED ACTION:

Adopt proposed proclamation recognizing August as Child Support Awareness Month and honoring Eastern Sierra Department of Child Support Services for achieving the highest percentage of Support Orders Established for similar-sized agencies.

FISCAL IMPACT:

None.

CONTACT NAME: Mary Booher

PHONE/EMAIL: 760-932-5415 / mbooher@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p> Child Support Proclamation</p>

History

Time	Who	Approval
7/24/2023 5:40 PM	County Counsel	Yes
7/25/2023 12:26 PM	Finance	Yes

7/25/2023 1:44 PM

County Administrative Office

Yes



***MONO COUNTY BOARD OF SUPERVISORS PROCLAMATION
DECLARING AUGUST AS CHILD SUPPORT AWARENESS MONTH AND
HONORING EASTERN SIERRA CHILD SUPPORT FOR OUTSTANDING
ACHIEVEMENT***

WHEREAS, Child support services for Mono County residents are provided jointly with Inyo County, through Eastern Sierra Child Support Services; and

WHEREAS, Eastern Sierra Child Support Services serves families by establishing parentage, obtaining child support and medical support orders, and enforcing child and spousal support obligations; and

WHEREAS, Eastern Sierra Child Support Services provides consistent services to all they serve, while recognizing the unique needs each co-parent has for their child; and

WHEREAS, Eastern Sierra Child Support Services receives Federal funding and reports to Federal performance measures on an annual basis; and

WHEREAS, August is Child Support Awareness Month, celebrated throughout the nation, in an effort to ensure that all children thrive; and

WHEREAS, In Federal Fiscal Year 2022, Eastern Sierra Child Support demonstrated outstanding performance for a very small local child support agency by achieving 96.4% in Federal Performance Measure 2, Support Order Establishment.

NOW, THEREFORE, be it resolved that the Mono County Board of Supervisors declares August 2023 as Child Support Awareness Month in Mono County; and

BE IT FURTHER RESOLVED that Mono County congratulates Eastern Sierra Child Support on outstanding achievement on behalf of Mono County's children.

APPROVED AND ADOPTED this 1st day of August 2023 by the Mono County board of Supervisors.

Jennifer Kreitz, Supervisor District #1

Rhonda Duggan, Supervisor District #2

Bob Gardner, Supervisor District #3

John Peters, Supervisor District #4

Lynda Salcido, Supervisor District #5



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: Social Services

TIME REQUIRED 10 minutes

SUBJECT Retirement Recognition of Pat Espinosa for Her Years of Service with Mono County

PERSONS APPEARING BEFORE THE BOARD

Kathy Peterson, Social Services Director; Krista Cooper, Social Worker Supervisor; Michelle Raust, Program Manager, Child, and Adult Services

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed proclamation of the Mono County Board of Supervisors recognizing Pat Espinosa for her years of service to Mono County and the Department of Social Services as the Senior Services Manager for northern Mono County communities.

RECOMMENDED ACTION:

Adopt proposed proclamation recognizing Pat Espinosa for her years of service to Mono County and the Department of Social Services as the Senior Services Manager for northern Mono County communities. Provide any desired direction to staff.

FISCAL IMPACT:

None.

CONTACT NAME: Kathy Peterson

PHONE/EMAIL: 7609241763 / kpeterson@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
Proclamation

History

Time	Who	Approval
7/17/2023 6:28 PM	County Counsel	Yes
7/24/2023 8:50 AM	Finance	Yes

7/24/2023 1:38 PM

County Administrative Office

Yes



**MONO COUNTY BOARD OF SUPERVISORS
RECOGNIZING PAT ESPINOSA**

WHEREAS, Pat has been a community member of Antelope Valley, Mono County since 2008 where she has actively and passionately contributed to the overall well-being of the communities of northern Mono County.

WHEREAS, Pat began working for the Department of Social Services at the Antelope Valley Senior Center in 2010, where she was involved in the making, serving, and delivering of thousands of hot, delicious and nutritious meals over the course of her employment. Pat also provided medical escorts, assisted seniors with information and referrals, planned for and held well over 200 birthday and holiday celebrations and other social events for seniors, and arranged for and accompanied seniors on numerous field trips throughout Mono County and into Nevada.

WHEREAS, Pat created a welcoming space at the Antelope Valley Senior Center as Senior Services Manager for northern Mono County. Here the community found support for a variety of aging-related services, but most of all they found connection, warmth, and a friendly welcome from Pat. Pat excelled in her advocacy for the seniors of the Antelope Valley and in her work to promote their quality of life and ability to age in their communities.

WHEREAS, Pat is knowledgeable about the needs of the senior population, and is particularly skilled in all aspects of the delivery of senior services through the Eastern Sierra Area on Aging. So many in our community and County family came to rely on Pat for her assistance, knowledge and deep connection to the Antelope Valley and its people. Adult and Child Services staff; Public Health nurses and Covid outreach workers; Paramedics; CERT Team volunteers; members of the Walker Thrift Store/Antelope Valley Senior Citizens Workshop; Northern Mono County Hospice; disaster service workers; medical staff in California and Nevada; and of course, the seniors themselves, are just a few of the people and groups that have come to rely on her. Time and again, if someone needed assistance in Mono County, the common refrain was, “ask Pat.”

WHEREAS, Pat now wishes to retire from county service and devote her time to her passions of camping, traveling, and spending time with friends and family,

WHEREAS, Pat will be greatly missed by the Mono County family and community members of northern Mono County; her devotion and commitment to the senior residents of the Antelope Valley has left an indelible mark on the Antelope Valley Senior Center, County and community.

NOW, THEREFORE, BE IT RESOLVED, Pat has concluded her almost 13-year career with the Department of Social Services as Senior Services Manager on September 1, 2023, and

BE IT FURTHER RESOLVED, the Mono County Board of Supervisors and the Mono County Social Services Department, hereby extend a most sincere “THANK YOU” in appreciation for Pat’s years of dedicated service.

APPROVED AND ADOPTED this 1st day of August 2023 by the Mono County Board of Supervisors.

Jennifer Kreitz, Supervisor District #1

Rhonda Duggan, Supervisor District #2

Bob Gardner, Supervisor District #3

John Peters, Supervisor District #4

Lynda Salcido, Supervisor District #5



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: Clerk of the Board

TIME REQUIRED

SUBJECT Reappointment to Assessment Appeals Board

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)
Reappointment of one regular member to the Mono County Assessment Appeals Board.

RECOMMENDED ACTION:

Reappoint Richard Liebersbach as a regular member of the Assessment Appeals Board for a three-year term effective September 4, 2023, through September 3, 2026.

FISCAL IMPACT:

None.

CONTACT NAME: Queenie Barnard

PHONE/EMAIL: 7609325534 / qbarnard@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p>No Attachments Available</p>
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History

Time	Who	Approval
7/17/2023 6:21 PM	County Counsel	Yes
7/24/2023 8:50 AM	Finance	Yes
7/24/2023 1:38 PM	County Administrative Office	Yes



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: Probation

TIME REQUIRED

SUBJECT Resolution Approving Department of State Hospitals Grant

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed resolution approving entry into grant agreement with the Department of State Hospitals for funding to provide psychiatric, and/or competency restoration services for justice involved clients.

RECOMMENDED ACTION:

Approve the proposed resolution and authorize the County Administrative Officer on behalf of the Mono County Board of Supervisors to sign the grant agreement with the Department of State Hospitals.

FISCAL IMPACT:

The total grant amount is \$500,000 for five years with \$100,000 per fiscal year beginning with FY 2022-23.

CONTACT NAME: Jeff Mills

PHONE/EMAIL: 7609325573 / jlmills@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
Staff Report
Resolution
Grant Agreement

History

Time	Who	Approval
7/17/2023 6:27 PM	County Counsel	Yes

7/25/2023 12:14 PM

Finance

Yes

7/25/2023 1:47 PM

County Administrative Office

Yes



MAILING: P.O. BOX 596, BRIDGEPORT, CALIFORNIA 93517
BRIDGEPORT OFFICE (760) 932-5570•FAX (760) 932-5571
MAMMOTH OFFICE (760) 924-1730•FAX (760) 924-1731

probation@mono.ca.gov

Mark Magit
Presiding Judge
Superior Court

Dr. Karin Humiston
Chief Probation Officer

August 1, 2023

TO: Honorable Board of Supervisors

FROM: K.S. Humiston

SUBJECT: Resolution Approving Department of State Hospitals Grant Program

RECOMMENDATION:

Approve the proposed resolution and authorize the County Administrative Officer on behalf of the Mono County Board of Supervisors to sign the Grant Agreement with the Department of State Hospitals, including any amendments thereof.

DISCUSSION:

In response to the new mental health diversion program set forth in California Penal Code 1001.36, Probation applied for a grant with the Department of State Hospitals. This grant necessitates that contractor shall be a county entity which will coordinate, participate in, and facilitate a collaborative community stakeholder workgroup focused on developing and implementing local solutions that target the reduction of the number of individuals with serious mental illness arrested and incarcerated for behavior connected to their illness. This can include, but not be limited to, planning for care court, coordinating treatment, discussing housing options, planning for rearrest and/or reentry into diversion programs. The workgroup shall also focus on targeting the reduction of Felony Incompetent to Stand Trial (FIST) commitments overall within the county.

FISCAL IMPACT:

The Probation Department has proposed grant funding in the amount of \$500,000 over a period of five years from July 1, 2023, to June 30, 2028. Funds will be distributed in installments of \$25,000 each quarter, not to exceed \$100,000 per agreement year.



R23-__

**A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS
APPROVING ENTERING INTO A GRANT PROGRAM WITH THE DEPARTMENT OF STATE
HOSPITALS**

WHEREAS, California Penal Code 1001.36 sets forth the state's mental health diversion program; and

WHEREAS, Mental health diversion is a pretrial diversion program which may allow mental health treatment when someone is accused of a crime and the court finds no clear and convincing evidence that the mental disorder was not a motivating factor, causal factor, or contributing factor to the alleged offense and upon successful completion of a pretrial diversion treatment program the charges may be dismissed; and

WHEREAS, The Mono County Probation Department in addressing this new diversion program, applied for a grant with the Department of State Hospitals; and

WHEREAS, The County of Mono desires to participate in the grant program funded through the California Department of State Hospitals;

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF MONO RESOLVES that: the County Administrative Officer be authorized on behalf of the Mono County Board of Supervisors to sign the Grant Agreement with the Department of State Hospitals, including any amendments thereof.

BE IT FURTHER RESOLVED that the County of Mono agrees to abide by the terms and conditions of the Grant Agreement as set forth by the Department of State Hospitals.

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PASSED, APPROVED and ADOPTED this 1st day of August 2023, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Rhonda Duggan, Chair
Mono County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Clerk of the Board

County Counsel

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER 23-79023-000	PURCHASING AUTHORITY NUMBER (If Applicable) DSH-4440
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1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME
Department of State Hospitals

CONTRACTOR NAME
Mono County

2. The term of this Agreement is:

START DATE
July 1, 2023

THROUGH END DATE
June 30, 2028

3. The maximum amount of this Agreement is:
\$500,000.00
Five Hundred Thousand Dollars and Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Scope of Work	5
Exhibit B	Budget Detail and Payment Provisions	5
Exhibit B-1	Sample Workgroup Invoice	1
+ - Exhibit C *	General Terms and Conditions - 04/2017	*
+ - Exhibit D	Special Terms and Conditions	9
+ - Exhibit F	Information Privacy and Security Requirements (Non-HIPAA/HITECH Act Contracts)	13

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

County of Mono

CONTRACTOR BUSINESS ADDRESS 74 N. School Street	CITY Bridgeport	STATE CA	ZIP 93517
PRINTED NAME OF PERSON SIGNING Mary Booher	TITLE County Administrative Officer		
CONTRACTOR AUTHORIZED SIGNATURE	DATE SIGNED		

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER 23-79023-000	PURCHASING AUTHORITY NUMBER (If Applicable) DSH-4440
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STATE OF CALIFORNIA

CONTRACTING AGENCY NAME
Department of State Hospitals

CONTRACTING AGENCY ADDRESS 1215 O Street, MS-1	CITY Sacramento	STATE CA	ZIP 95814
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PRINTED NAME OF PERSON SIGNING Faith Hiatt	TITLE Section Manager, PCSS
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CONTRACTING AGENCY AUTHORIZED SIGNATURE	DATE SIGNED
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CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL	EXEMPTION (If Applicable) W & I Code 4361 (h)
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EXHIBIT A
SCOPE OF WORK

1. CONTRACTED PARTIES:

A. Mono County and/or their authorized designee, hereafter referred to as Contractor, agrees to provide services (as defined in Section 6) to the Department of State Hospitals (DSH) pursuant to the terms and conditions of this Agreement. In this document, the terms "contract" and "agreement" are used interchangeably.

2. SERVICE LOCATIONS:

A. The services shall be performed at various locations throughout the State of California including but not limited to conference and meeting rooms at available state buildings, and remotely via teleconference and/or webinar.

3. SERVICE HOURS

A. The services shall be provided during normal business hours 8:00 a.m. to 5:00 p.m., Monday through Friday, except state holidays, on an as-needed basis.

4. PROJECT REPRESENTATIVES:

The project representatives during the term of this Agreement shall be:

DSH Contract Manager:	
Section/Unit: Community Forensic Partnerships Division	
Attention: Kathryn Sears Health Program Manager II	
Address: 1215 O Street, MS-10 Sacramento, CA 95814	
Phone: (916) 352-0069	Fax: N/A
Email: Kathryn.Sears@dsh.ca.gov	

DSH Administrative Contact:	
Section/Unit: Community Forensic Partnerships Division	
Attention: Karteek Kankanala Associate Governmental Program Analyst	
Address: 1215 O Street, MS-10 Sacramento, CA 95814	
Phone: (916) 562-3006	Fax: N/A
Email: Karteek.Kankanala@dsh.ca.gov	

County Contract Manager:	
Section/Unit: Mono County Probation	
Attention: Karin Humiston, Chief Probation Officer	
Address: 57 Bryant St, Bridgeport, CA 93517	
Phone: (760) 932-5572	Fax: N/A
Email: khumiston@mono.ca.gov	

Either party may make changes to the contact names or information above by giving written notice to the other party. Said changes shall not require an amendment to this Agreement.

5. SUMMARY OF WORK TO BE PERFORMED:

- A. Contractor shall be a county entity which will coordinate, participate in, and facilitate a collaborative community stakeholder workgroup focused on developing and implementing local solutions that target the reduction of the number of individuals with serious mental illness arrested and incarcerated for behavior connected to their illness. This can include, but not be limited to, planning for care court, coordinating treatment, discussing housing options, planning for rearrest and/or reentry into diversion programs. The workgroup shall also focus on targeting the reduction of Felony Incompetent to Stand Trial (FIST) commitments overall within the county. If the Contractor is not from one of the county entities required to participate in the workgroup as referenced in 6.A, facilitation and participation responsibilities may be delegated to another workgroup member.

6. CONTRACTOR RESPONSIBILITIES:

- A. The members of the workgroup coordinated by the Contractor must include, but are not limited to, representatives from the County Superior Court, the Public Defender's Office, the District Attorney's Office, the County Sheriff, the County Department of Behavioral Health or Primary Service Provider, and the County Probation Officer. The Contractor responsible for coordinating the workgroup may or may not be from one of the county entities required to participate on the collaborative community stakeholder workgroup.
- B. The Contractor shall submit and maintain an annual roster of all current members of their workgroup. The Contractor shall email the roster to DSH at DSHDiversion@dsh.ca.gov no later than July 31st of each fiscal year.
- C. Contractor shall actively utilize this workgroup to develop and implement local solutions that reduce the number of individuals with serious mental illness arrested who are incarcerated for behavior connected to their illness. Contractor must also utilize this workgroup to implement local solutions that target the reduction of FIST commitments overall within the county.
- D. Contractor shall coordinate meetings with the workgroup as often as necessary but, the Contractor must hold one (1) substantive quarterly meeting at a minimum.
- E. Meetings shall include, at a minimum, four (4) roster members or representatives of the roster members present to be eligible for invoicing. Contractor, in coordination with collaborative community stakeholder workgroup members, shall establish workgroup norms and processes to obtain concurrence and resolve disputes during developing, prioritizing, and implementing possible solutions.

- F. Contractor shall provide DSH with a list of roster members who attended the meeting, a copy of the meeting agenda which includes a list of action items discussed, and a brief summary of the current status and outcomes resulting from the workgroup's efforts as verification for disbursement.
- G. Contractor and its subcontractors shall procure and keep in full force and effect during the term of this Agreement all permits, registrations and licenses necessary to accomplish the work specified in this Agreement and shall give all notices necessary and incident to the lawful prosecution of the work. Contractor shall provide proof of any such license(s) permits(s), and certificate(s) upon request by the DSH. Contractor agrees that failure by itself or its subcontractors to provide evidence of licensing, permits, or certifications shall constitute a material breach for which the DSH may terminate this Agreement with cause.
- H. Contractor shall provide services as outlined in this Agreement. Contractor shall be responsible to fulfill the requirements of this Agreement and shall incur expenses at its own risk and invest sufficient amount of time and capital to fulfill the obligations as contained herein.
- I. Contractor and its subcontractors shall keep informed of, observe, comply with, and cause all its agents and employees to observe and to comply with all prevailing Federal, State, and local laws, rules, and regulations made pursuant to pertinent Federal, State, and local laws. If any conflict arises between provisions of the plans and specifications and any such law above referred to, Contractor shall immediately notify DSH in writing.
- J. The DSH may terminate the Agreement for cause, pursuant to section 7 of Exhibit C if the Contractor or its subcontractors fails to comply with a federal, state or local law and the noncompliance, based on the facts and circumstances would constitute a material breach of this Agreement under California law.
- K. On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. By submitting a bid or proposal, Contractor represents that it is not a target of Economic Sanctions. Should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for rejection of the Contractor's bid/proposal any time prior to contract execution, or, if determined after contract execution, shall be grounds for termination by the State.

7. DSH RESPONSIBILITIES:

- A. DSH shall distribute funds to Contractor in accordance with the schedule outlined in Exhibit B, Section 5. Budget Detail, with approved submission of deliverables.
- B. Rights of the DSH to Perform Quality Assurance and Financial Audits/Reviews

- i. The DSH may routinely assess the work performance of the Contractor, Contractor's personnel, subcontractors, or other parties associated with the Contractor to determine if the DSH standards and departmental policies and procedures are being maintained. If it is found that any party fails to perform or is physically or mentally incapable of providing services as required by the Agreement, then that party shall not perform services for the DSH.
- ii. The DSH may monitor and evaluate services provided in fulfillment of the requirements of this Agreement, as detailed in Exhibit A. Such monitoring and evaluation may occur on a regular cycle or as deemed necessary by the Contract Manager. The DSH retains sole and absolute discretion in determining any such evaluation schedule.
- iii. Inspections may be conducted by the DSH staff at any time during the Agreement term to check on the quality of work. Payment shall not be provided for services deemed unacceptable by the Contract Manager and/or their designee.
- iv. The DSH may audit and examine Contractor's records and accounts which pertain, directly or indirectly, to services performed under this Agreement. The DSH may hire third parties to perform the audit and examination, including but not limited to, accountants, consultants, or service providers in the applicable field. Contractor shall cooperate fully with the audits and examinations.
- v. If as a result of an audit and examination, the DSH is informed of underpayments or overpayments, the DSH shall notify Contractor of the need for payment or reimbursement. Upon receipt of a final audit report, Contractor has thirty (30) calendar days to reimburse any overpayment or to dispute or challenge the report. Contractor and the DSH shall confer and negotiate in good faith with respect to any disputed portion of the final audit report to reach agreement with respect to adjustments, payments, and reimbursements.
- vi. The DSH shall submit its findings to Contractor and establish a deadline for correcting any deficiencies in fulfilling the obligations set forth in this section. Failure by the Contractor to timely correct deficiencies shall be reason for termination of services under this Agreement.

8. PERFORMANCE MEASURES:

A. Complete and Timely Provision of Services

- i. Expectations: Contractor is expected to provide all services, including any and all required reports, in a timely manner – in accordance with timelines established in Exhibit A, Scope of Work.
- ii. Penalties: Should Contractor not provide all services, including any and all required reports in a timely manner, DSH may choose to terminate this Agreement. Additionally, the DSH may find the contractor to be not responsible in provision of services and evaluate this in future contracting opportunities.

9. AMENDMENTS:

- A. The parties reserve the right to amend this Agreement by extending its term, and to add funding sufficient for these periods at the same rates. This right to amend is in addition to the right to amend for other reasons contained in this Agreement or noted in the solicitation that resulted in this Agreement, if applicable. Any amendment shall be in writing and signed by both parties and be approved by the Department of General Services if such approval is required.

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. INVOICING AND PAYMENT

- A. Contractor shall submit all invoices not more frequently than quarterly in arrears.
- B. For services satisfactorily rendered, and upon receipt and approval of invoices submitted as described herein, DSH agrees to compensate Contractor in accordance with the schedule of payments specified in section 5, Budget Detail.
- C. The DSH is not responsible for services performed by Contractor outside of this Agreement, nor for services performed other than as outlined in Exhibit A, Scope of Work.
- D. The DSH makes no guarantee, either written or implied, as to the actual amount of funds that will be expended under this Agreement.
- E. Contractor shall not bill or seek reimbursement from DSH for any goods or services if Contractor received or will receive reimbursement or funding for such goods or services under any federal program, such as the CAREs Act or FEMA disaster relief, except when Contractor has billed Medicare and seeks the difference between the Medicare payment and the DSH Agreement price.

2. INSTRUCTIONS TO CONTRACTOR:

- A. To expedite the processing of invoices submitted to DSH for distribution of funds, all invoices shall be submitted to the DSH for review and approval at either:

Department of State Hospitals
Attention: Accounting Office, MS-2
1215 O Street
Sacramento, CA 95814

OR
DSHSAC.AccountsPayable@dsh.ca.gov

- B. Contractor shall submit one (1) original and three (3) copies of each invoice, unless emailed.
- C. Contractor shall type, not handwrite, each invoice on company letterhead. DSH may provide an invoice template, if requested, which may be used in lieu of company letterhead. (See Exhibit B, Attachment 1 for sample invoice template.)
- D. Contractor shall clearly note Contractor's name and address on each invoice. The name on the invoice must match the Payee Data Record (Std. 204) and the name listed on this Agreement.
- E. Contractor shall list and itemize in accordance with the Budget Detail, Provision 5, disbursement number provided on each invoice.

- F. Contractor shall include the following on each submitted invoice:
- i. Date(s) during which the services or deliverables were provided and the date in which the invoice was generated.
 - ii. Agreement number, which can be found on the Standard Agreement Form (Std. 213).
 - iii. Invoice Total
 - iv. Disbursement Number (Exhibit B, Budget Detail, invoice number one through six)
 - v. Signature (may be e-signature or wet signature)

3. BUDGET CONTINGENCY CLAUSE:

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall no longer be in full force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any Fiscal Year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State or offer an Agreement amendment to Contractor to reflect the reduced amount.
- C. If this Agreement overlaps Federal and State fiscal years, should funds not be appropriated by Congress or approved by the Legislature for the Fiscal Year(s) following that during which this Agreement was executed, the State may exercise its option to cancel this Agreement.
- D. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by Congress or the Legislature which may affect the provisions or terms of funding of this Agreement in any manner.

4. PROMPT PAYMENT CLAUSE:

Payment will be made in accordance with, and within the time specified in, Government Code section 927, et seq.

5. BUDGET DETAIL

- A. The maximum amount of this Agreement shall not exceed \$500,000.
- i. Funding distribution is found in Table B1 below and shall not exceed \$100,000 per Agreement year.
- B. Contractor shall submit the following items to DSH with each invoice:
- i. A list of roster members who attended the required meeting(s)
 - ii. A copy of the meeting agenda(s) which include a list of action items discussed

- iii. A brief summary of the current status and outcomes resulting in the workgroup's efforts commensurate with the timeframe associated with the invoice period
- C. Funding awarded to the Contractor pursuant to this Agreement shall be distributed in installments as outlined in Table B1 below.

TABLE B1 – FUNDING DISTRIBUTION FOR STAKEHOLDER WORKGROUP

Fiscal Quarter	Months	# Of Meetings Held	Amount
Agreement Year 1			
1	July-Sep		\$25,000
2	Oct-Dec		\$25,000
3	Jan-Mar		\$25,000
4	Apr-June		\$25,000
Agreement Year 1 Total			\$100,000
Agreement Year 2			
1	July-Sep		\$25,000
2	Oct-Dec		\$25,000
3	Jan-Mar		\$25,000
4	Apr-June		\$25,000
Agreement Year 2 Total			\$100,000
Agreement Year 3			
1	July-Sep		\$25,000
2	Oct-Dec		\$25,000
3	Jan-Mar		\$25,000
4	Apr-June		\$25,000
Agreement Year 3 Total			\$100,000
Agreement Year 4			
1	July-Sep		\$25,000
2	Oct-Dec		\$25,000
3	Jan-Mar		\$25,000
4	Apr-June		\$25,000
Agreement Year 4 Total			\$100,000
Agreement Year 5			
1	July-Sep		\$25,000
2	Oct-Dec		\$25,000
3	Jan-Mar		\$25,000
4	Apr-June		\$25,000
Agreement Year 5 Total			\$100,000
TOTAL AGREEMENT AMOUNT			\$500,000

- D. Contractor must submit all invoices within a reasonable time but, no later than twelve (12) months from the date that services were provided. If Contractor fails to provide invoices within twelve (12) months of the date services are rendered, the DSH may elect to reject the invoices for payment as untimely and Contractor will be deemed to have waived any right to payment of the late invoices.
- E. Contractor shall not be reimbursed for any travel-related expenses. All travel shall be at the expense of Contractor.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

1. SUBCONTRACTS:

- A. Except for subcontracts identified in accordance with the solicitation, Contractor shall submit any subcontracts in connection with this Agreement to the DSH for its prior written approval. No work shall be subcontracted without the prior written approval of the DSH. Upon the termination of any subcontract, the DSH shall be notified immediately. Any subcontract shall include all the terms and conditions of this Agreement and its attachments.
- B. Nothing contained in this Agreement shall create any contractual relationship between the DSH and any subcontractors, and Contractor is solely responsible for payment of any and all fees, expenses, salaries and benefits of subcontractor. No subcontract shall relieve the Contractor of its responsibilities and obligations hereunder. The Contractor is fully responsible to the DSH for the acts and omissions of its subcontractors and of persons either directly or indirectly employed or acting as an agent by any of them. Contractor agrees to indemnify and hold the DSH harmless for any costs, losses or claims, including reasonable attorney fees, resulting from its subcontractors.

2. PUBLICATIONS AND REPORTS:

- A. The DSH reserves the right to use and reproduce all publications, reports, and data produced or delivered pursuant to this Agreement. The DSH further reserves the right to authorize others to use or reproduce such materials, provided the author of the report is acknowledged in any such use or reproduction.
- B. If the publication and/or report are prepared by non-employees of the DSH, and the total cost for such preparation exceeds \$5,000, the publication and/or report shall contain the numbers and dollar amounts of all agreements and subcontracts relating to the preparation of the publication and report in a separate section of the report (Government Code section 7550).

3. PROGRESS REPORTS:

- A. If progress reports are required by the Agreement, Contractor shall provide a progress report in writing, or orally if approved by the DSH Contract Manager, at least once a month to the DSH Contract Manager. This progress report shall include, but not be limited to; a statement that the Contractor is or is not on schedule, any pertinent reports, and any interim findings if applicable. Contractor shall cooperate with and shall be available to meet with the DSH to discuss any difficulties, or special problems, so that solutions or remedies can be developed as soon as possible.

4. PRESENTATION:

- A. Upon request, Contractor shall meet with the DSH to present any findings, conclusions, and recommendations required by the Agreement for approval. If set forth in the Agreement, Contractor shall submit a comprehensive final report for approval. Both the final meeting and the final report shall be completed on or before the date indicated in this Agreement.

EXHIBIT B, ATTACHMENT 1
SAMPLE WORKGROUP INVOICE

[Insert Contractor's Department company logo/address]

WORKGROUP INVOICE

DATE	INVOICE #

Department of State Hospitals
 Attn: Accounting Office
 1215 O Street, MS-2
 Sacramento, CA 95814

AGREEMENT #

DSH Diversion Funding Disbursement Request				
	Invoice # (1, 2,3,4)	Months/Year	# Of meetings held	Total Disbursement Requested
<input type="checkbox"/>		July-September		\$ _____
<input type="checkbox"/>		October-December		\$ _____
<input type="checkbox"/>		January-March		\$ _____
<input type="checkbox"/>		April-June		\$ _____

TOTAL: \$ _____

PLEASE MAKE REMITTANCE PAYABLE TO:

[Insert Contractor's Department billing contact/address]

Prepared By: [Signature here]
 [Insert name/title here]

5. DEPARTMENT OF STATE HOSPITALS STAFF:

- A. The DSH's staff shall be permitted to work side-by-side with Contractor's staff to the extent and under conditions as directed by the DSH Contract Manager. In this connection, the DSH's staff shall be given access to all data, working papers, etc., which Contractor seeks to utilize.
- B. The Contractor shall abide by DSH's written policy and procedures on "nepotism," which is defined as "The practice of an employee using their influence or power to aid or hinder another in the employment setting because of a personal relationship." Accordingly, Contractor shall not use their influence or power to aid or hinder another in DSH's or Contractor's employment setting because of a personal relationship. The Contractor shall disclose any personal relationship with any current DSH workforce member by completing DSH 3215 Verification of Personal Relationships and Hiring of Relatives. Contractor shall also disclose any personal relationships with any current subcontractor(s)' workforce member.

6. CONFIDENTIALITY OF DATA AND DOCUMENTS:

- A. Contractor shall not disclose data or documents or disseminate the contents of the final or any preliminary report without written permission of the DSH Contract Manager. However, all public entities shall comply with California Public Records Act (Government Code sections 6250 et seq.).
- B. Permission to disclose information or documents on one occasion shall not authorize Contractor to further disclose such information or documents on any other occasion except as otherwise provided in the Agreement or required by law.
- C. Contractor shall not comment publicly to the press, or any other media, regarding the data or documents generated, collected, or produced in connection with this Agreement, or the DSH's actions on the same, except to the DSH's staff, Contractor's own personnel involved in the performance of this Agreement, or as required by law.
- D. If requested by the DSH, Contractor shall require each of its employees or officers who will be involved in the performance of this Agreement to agree to the above terms in a form to be approved by the DSH and shall supply the DSH with evidence thereof.
- E. Each subcontract shall contain the foregoing provisions related to the confidentiality of data and nondisclosure.
- F. After any data or documents submitted has become a part of the public records of the DSH, Contractor may at its own expense and upon written approval by the DSH Contract Manager, publish or utilize the same data or documents but shall include the following Notice:

LEGAL NOTICE

This report was prepared as an account of work sponsored by the Department of State Hospitals (Department), but does not necessarily represent the views of the Department or any of its employees except to the extent, if any, that it has formally been approved by the Department. For information regarding any such action, communicate directly with the Department at P.O. Box 952050, Sacramento, California, 94252-2050. Neither said Department nor the State of California, nor any officer or employee thereof, or any of its contractors or subcontractors makes any warranty, express or implied, or assumes any legal liability whatsoever for the contents of this document. Nor does any party represent that use of the data contained herein, would not infringe upon privately owned rights

without obtaining permission or authorization from any party who has any rights in connection with the data.

7. PROVISIONS RELATING TO DATA:

- A. "Data" as used in this Agreement means recorded information, regardless of form or characteristics, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or be used to define a design or process; or support a premise or conclusion asserted in any deliverable document called for by this Agreement. The data may be graphic or pictorial delineations in media, such as drawings or photographs, charts, tables, mathematical modes, collections or extrapolations of data or information, etc. It may be in machine form, as punched cards, magnetic tape, computer printouts, or may be retained in computer memory.
- B. "Generated data" is that data, which a Contractor has collected, collated, recorded, deduced, read out or postulated for utilization in the performance of this Agreement. Any electronic data processing program, model or software system developed or substantially modified by the Contractor in the performance of this Agreement at the expense of the DSH, together with complete documentation thereof, shall be treated in the same manner as generated data.
- C. "Deliverable data" is that data which under terms of this Agreement is required to be delivered to the DSH. Such data shall be property of the State of California and the DSH.
- D. Prior to the expiration of any legally required retention period and before destroying any data, Contractor shall notify the DSH of any such contemplated action; and the DSH may within 30 days of said notification determine whether or not this data shall be further preserved. The DSH shall pay the expense of further preserving this data. The DSH shall have unrestricted reasonable access to the data that is preserved in accordance with this Agreement.
- E. Contractor shall use best efforts to furnish competent witnesses to testify in any court of law regarding data used in or generated under the performance of this Agreement.
- F. All financial, statistical, personal, technical and other data and information relating to the DSH's operation, which are designated confidential by the State or the DSH and made available to carry out the Agreement, or which become available to Contractor in order to carry out this Agreement, shall be protected by Contractor from unauthorized use and disclosure.
- G. If the DSH determines that the data and information are inadequately protected by Contractor or its subcontractors, the DSH shall provide notice of its determination and Contractor and/or its subcontractors shall improve the protections to the DSH's satisfaction which shall be evidenced by written approval of the protections implemented.

8. APPROVAL OF PRODUCT:

- A. Each product to be approved under this Agreement shall be approved by the Contract Manager. The DSH's determination as to satisfactory work shall be final, absent fraud or mistake.

9. SUBSTITUTIONS:

- A. Contractor's key personnel as indicated in its proposal may not be substituted without the Contract Manager's prior written approval.

10. NOTICE:

- A. Notice to either party shall be given by first class mail, by Federal Express, United Parcel Service or similar carrier, properly addressed, postage fully prepaid, to the address beneath the name of each respective party. Alternatively, notice may be given by personal delivery by any means whatsoever to the party and such notice shall be deemed effective when delivered.

11. WAIVER:

- A. All remedies afforded in this Agreement are cumulative; that is, in addition to every other remedy provided therein or by law. The failure of the DSH to enforce any provision of this Agreement, shall not waive its right to enforce the provision or any other provision of the Agreement.

12. GRATUITIES AND CONTINGENCY FEES:

- A. Contractor shall not provide gratuities to any officer or employee of the DSH or the State to secure an agreement or favorable treatment with respect to an agreement, the occurrence of which shall constitute a material breach of this Agreement. The DSH, by written notice to the Contractor, may terminate this Agreement with cause if it is found that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the State or the DSH with a view toward securing an agreement or securing favorable treatment with respect to the awarding, amending, or performance of such agreement.
- B. In the event this Agreement is terminated as provided in the paragraph above, the DSH shall be entitled (a) to pursue the same remedies against Contractor as it could pursue in the event of the breach of the Agreement by the Contractor, and (b) as a predetermined amount of liquidated damages, Contractor shall pay an amount which shall not be less than three times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.
- C. The rights and remedies of the DSH provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
- D. The Contractor warrants by execution of this Agreement that no person or selling agency has been employed or retained to solicit or secure this Agreement for a commission, percentage, brokerage or contingent fee, excepting bona fide employees of Contractor, for the purpose of securing business. For breach or violation of this warranty, the DSH shall, among other rights, have the right to rescind this Agreement without liability, paying only for the values of the work actually returned, or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

13. INTEGRATION CLAUSE:

- A. The parties agree that this Agreement, including only the State standard form 213 and all exhibits, constitute the entire agreement of the parties and no other understanding or communication, whether written or oral, shall be construed to be a part of this Agreement.

14. CAPTIONS:

- A. The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to and shall not be deemed to define, limit or extend the scope or intent of the clauses to which they pertain.

15. PUBLIC HEARINGS:

- A. If public hearings on the subject matter dealt with in this Agreement are held within one year from the Agreement expiration date, Contractor shall make available to testify the personnel assigned to this Agreement at the hourly rates specified in the Contractor's proposed budget. The DSH shall reimburse Contractor for travel of said personnel at the Agreement, or if none, at State rates for such testimony as may be requested by the DSH.

16. FORCE MAJEURE:

- A. Neither the DSH nor the Contractor shall be deemed to be in default in the performance of the terms of this Agreement if either party is prevented from performing the terms of this Agreement by causes beyond its control, which shall include without being limited to: acts of God; interference, rulings or decision by municipal, Federal, State or other governmental agencies, boards or commissions; any laws and/or regulations of such municipal, State, Federal, or other governmental bodies; or any catastrophe resulting from flood, fire, explosion, earthquakes or other similar environmental causes beyond the control of the defaulting party. If any of the stated contingencies occur, the party delayed by force majeure shall immediately give the other party written notice of the cause of delay. The party delayed by force majeure shall use reasonable diligence to correct the cause of the delay, if correctable.

17. LITIGATION:

- A. The DSH, promptly after receiving notice thereof, shall notify the Contractor in writing of the commencement of any claim, suit, or action against the DSH or its officers or employees for which the Contractor must provide indemnification under this Agreement. The failure of the DSH to give such notice, information, authorization or assistance shall not relieve the Contractor of its indemnification obligations. The Contractor shall immediately notify the DSH of any claim or action against it which affects, or may affect, this Agreement, the terms or conditions hereunder, DSH, and shall take such action with respect to said claim or action which is consistent with the terms of this Agreement and the interest of the DSH.
- B. Contractor shall be in default of this Agreement (i) upon the institution by or against Contractor of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Contractor's debts, (ii) upon Contractor making an assignment for the benefit of creditors, (iii) upon either party's dissolution or ceasing to do business or (iv) when the facts and circumstances indicate that Contractor is insolvent. For purposes of this Agreement, Contractor shall be deemed insolvent if: (i) Contractor has failed to pay salaries, overtime or benefits required by law of agreement, (ii) Contractor has failed to pay a subcontractor amounts owed pursuant to its agreements with a subcontractor, or (iii) Contractor has failed to pay a vendor amounts Contractor owes the vendor for more than 90 days the past due date for payment.

18. DISPUTES:

- A. Contractor shall first discuss and attempt to resolve any dispute arising under or relating to the performance of this Agreement.

19. EVALUATION OF CONTRACTOR'S PERFORMANCE:

- A. The DSH shall evaluate Contractor's performance under this Agreement using standardized evaluation forms which shall be made available to every state agency pursuant to Public Contracts Code section 1067.

20. AUDITS, INSPECTION AND ENFORCEMENT:

- A. Contractor agrees to allow the DSH to inspect its facilities and systems, and make available for review its books and records to enable the DSH to monitor compliance with the terms of this Agreement and audit invoices submitted to the DSH.
- B. Contractor shall promptly remedy any violation of any provision of this Agreement to the satisfaction of the DSH.
- C. The fact that the DSH inspects, or fails to inspect, or has the right to inspect Contractor's facilities, systems, books and records does not relieve Contractor of its responsibility to independently monitor its compliance with this Agreement.
- D. The DSH's failure to detect or the DSH's detection of any unsatisfactory practices, but failure to notify Contractor or require Contractor's remediation of the unsatisfactory practices does not constitute acceptance of such practice or a waiver of the DSH's enforcement rights under the Agreement.

21. USE OF STATE FUNDS:

- A. Contractor, including its officers and members, shall not use funds received from the DSH pursuant to this Agreement to support or pay for costs or expenses related to the following:
 - i. Campaigning or other partisan activities to advocate for either the election or defeat of any candidate for elective office, or for or against the passage of any proposition or ballot measure; or,
 - ii. Lobbying for either the passage or defeat of any legislation.
- B. This provision is not intended and shall not be construed to limit any expression of a view, opinion, or position of any member of Contractor as an individual or private citizens, as long as state funds are not used; nor does this provision limit Contractor from merely reporting the results of a poll or survey of its membership.

22. CANCELLATION PROVISIONS:

- A. Unless otherwise specified, this Agreement may be canceled at any time by the DSH, in writing, with thirty (30) days advance notice. If canceled, payment shall be made only for the provision of services expressly authorized by this Agreement until the date of cancellation and only at the rates set forth in Exhibit B, Budget Detail. In the case of early termination, a final payment will be made to Contractor upon receipt of an invoice covering all authorized costs, at the rates set forth

in Exhibit B, incurred prior to the date of cancellation or termination. The DSH shall not be responsible for unamortized costs, overhead or capital costs or any other related costs, including but, not limited to costs incurred in connection with the cancellation of leases or contracts pertaining to facilities, equipment or supplies, labor and employee benefits costs, and expenditures incurred after the date of notice of cancellation.

- B. If the DSH determines that the Contractor has breached a material term of the Agreement and has not cured the breach or ended the violation within the time specified by the DSH, the DSH may terminate the contract by providing notice to the Contractor. The DSH Information Security Officer shall report as required HIPAA violations to the Secretary of the U.S. Department of Health and Human Services.
- C. Failure to comply with section 1 or 6 of this Exhibit, or a violation of section 12 of this Exhibit, shall be deemed a material breach of this Agreement.

23. EMPLOYMENT PROVISIONS:

- A. Contractor acknowledges and agrees that neither Contractor, their personnel, subcontractors, nor other service providers through this Agreement are employees of the DSH. Contractor and its independent contractors shall be solely responsible for:
 - i. Paying any and all payroll taxes, including, but not limited to Social Security and Medicare taxes,
 - ii. Federal or state income tax withholding,
 - iii. Providing unemployment insurance and workers compensation insurance, and
 - iv. Paying compensation to its employees in accordance with federal and state labor laws, including overtime pay unless otherwise specified in this Agreement, as well as penalties that may be imposed for failure to comply with these laws. Contractor agrees to indemnify and hold harmless the DSH for any damages, losses, expenses, including reasonable attorney fees, in connection with its failure to pay salary or overtime, or provide benefits, including, but not limited to health care benefits or retirement benefits, to its employees, or its failure to provide to comply with federal or state labor laws.

24. LIABILITY FOR LOSS AND DAMAGES:

- A. Any damages by Contractor, their personnel, subcontractors, and other service providers through this Agreement to DSH's facility, including equipment, furniture, materials, or other State or DSH property, shall be repaired or replaced by Contractor to the satisfaction of the DSH at Contractor's expense. The DSH, at its option, may repair any such damage and deduct the cost thereof from any sum due Contractor under this Agreement.

25. SECURITY CLEARANCE/FINGERPRINTING/TUBERCULIN SKIN TESTING:

- A. The DSH reserves the right to conduct fingerprinting, drug testing, and/or security clearance through the Department of Justice, Bureau of Criminal Identification and Information (BCII), prior to award and at any time during the term of the Agreement, in order to permit Contractor, their personnel, subcontractors, and other service providers through this Agreement access to State premises. The DSH further reserves the right to terminate this Agreement should a threat to security be determined.
- B. In the event that the services required under this Agreement will be performed within a DSH facility, Contractors and their employees who are assigned to work with, near, or around patients shall be required to be examined and tested or medically evaluated by a licensed healthcare provider for TB in an infectious or contagious stage prior to the performance of contracted duties, and at least once a year thereafter (within 12 months of their initial or previous TB test under this contract), or more often as directed by DSH. Contractors and their employees who have any contact (physical or nonphysical) with patients, shall be required to furnish to the DSH Contract Manager, at no cost to DSH, a documented Tuberculosis (TB) evaluation/test for TB infection (Tuberculin Skin Test (TST) or a blood test Interferon Gamma Release Assay (IGRA) completed within (30) thirty days of the start date of the services and be certified to be free of TB in an infectious or contagious stage by a licensed healthcare provider prior to assuming their contracted duties and annually thereafter.
- C. If both of the documented results of the TST provided $\leq 0-9$ /mm of induration, then the tested person may be cleared to provide services. However, if the documented result of the TST is ≥ 10 /mm of induration, then they shall be subject to additional testing and/or clearances before he or she is allowed to work at a DSH facility.
- D. The DSH reserves the right, in its sole and absolute discretion, to take measures to minimize the transmission of influenza. Contractor, their personnel, subcontractors, and other service providers through this Agreement may be required to either a) show written proof that they have received an influenza vaccine, or b) complete an Influenza Declination Form, which will be provided upon request. In addition, all non-vaccinated providers may be required to wear a mask. In its sole and absolute discretion, DSH may elect to provide free influenza vaccines to Contractor, their personnel, subcontractors, and other service providers through this Agreement.

26. PHYSICIAN OWNERSHIP AND REFERRAL ACT OF 1993:

- A. For applicable medical services contracts, and in accordance with the Physician Ownership and Referral Act of 1993, Contractor shall not refer any patient to any health care provider or health-related facility if the Contractor has a financial interest with that health care provider or health-related facility.
- B. Contractor may make a referral to or request consultation from a sole source health care provider or health-related facility in which financial interest is held if Contractor is located where there is no alternative provider of service within either twenty-five (25) miles or forty (40) minutes travel time, subject to the prior approval of the DSH. Contractor shall disclose, in writing, as well as on a continuous basis, to the DSH, its financial interest at the time of referral or request for consultation. In no event, will this prohibit patients from receiving emergency health care services.

27. AMENDMENTS:

- A. The parties reserve the right to amend this Agreement as mutually agreed upon. This is in addition to the right to amend for other reasons contained in this Agreement or noted in the solicitation that resulted in this Agreement, if applicable. Any amendment shall be in writing and signed by both parties, and be approved by the Department of General Services if such approval is required.

Revision 11-18-2020

EXHIBIT F
INFORMATION PRIVACY AND SECURITY REQUIREMENTS
(Non-HIPAA/HITECH Act Contracts)

This Information Privacy and Security Requirements Exhibit (For Non-Health Insurance Portability and Accountability Act/Health Information Technology for Economic and Clinical Health (Non-HIPAA/HITECH Act Contracts) (hereinafter referred to as "this Exhibit") sets forth the information privacy and security requirements Contractor is obligated to follow with respect to all personal and confidential information (as defined herein) disclosed to Contractor, or collected, created, maintained, stored, transmitted or used by Contractor for or on behalf of the California Department of State Hospitals (hereinafter "DSH"), pursuant to Contractor's agreement with DSH. (Such personal and confidential information is referred to herein collectively as "DSH PCI".) DSH and Contractor desire to protect the privacy and provide for the security of DSH PCI pursuant to this Exhibit and in compliance with state and federal laws applicable to the DSH PCI.

- I. Order of Precedence: With respect to information privacy and security requirements for all DSH PCI, the terms and conditions of this Exhibit shall take precedence over any conflicting terms or conditions set forth in any other part of the agreement between Contractor and DSH, including Exhibit A (Scope of Work), all other exhibits and any other attachments, and shall prevail over any such conflicting terms or conditions.
- II. Effect on lower tier transactions: The terms of this Exhibit shall apply to all contracts, subcontracts, and subawards, and the information privacy and security requirements Contractor is obligated to follow with respect to DSH PCI disclosed to Contractor, or collected, created, maintained, stored, transmitted or used by Contractor for or on behalf of DSH, pursuant to Contractor's agreement with DSH. When applicable the Contractor shall incorporate the relevant provisions of this Exhibit into each subcontract or subaward to its agents, subcontractors, or independent consultants.
- III. Definitions: For purposes of the agreement between Contractor and DSH, including this Exhibit, the following definitions shall apply:
 - A. Breach: "Breach" means:
 1. the unauthorized acquisition, access, use, or disclosure of DSH PCI in a manner which compromises the security, confidentiality or integrity of the information; or
 2. the same as the definition of "breach of the security of the system" set forth in California Civil Code section 1798.29(f) (2021).
 - B. Confidential Information: "Confidential information" means information that:

1. does not meet the definition of “public records” set forth in California Government Code section 6252(e) (2021), or is exempt from disclosure under any of the provisions of Section 6250, et seq. of the California Government Code or any other applicable state or federal laws; or
 2. is contained in documents, files, folders, books or records that are clearly labeled, marked or designated with the word “confidential” by DSH.
- C. Disclosure: “Disclosure” means the release, transfer, provision of, access to, or divulging in any manner of information outside the entity holding the information.
- D. PCI: “PCI” means “personal information” and “confidential information” collectively (as these terms are defined herein).
- E. Personal Information: “Personal information” means information, in any medium (paper, electronic, oral) that:
1. directly or indirectly collectively identifies or uniquely describes an individual; or
 2. could be used in combination with other information to indirectly identify or uniquely describe an individual, or link an individual to the other information; or
 3. meets the definition of “personal information” set forth in California Civil Code section 1798.3, subdivision (a) (2021); or
 4. is one of the data elements set forth in California Civil Code section 1798.29, subdivision (g)(1) or (g)(2) (2021); or
 5. meets the definition of “medical information” set forth in either California Civil Code section 1798.29, subdivision (h)(2) (2021), or California Civil Code section 56.05, subdivision (j) (2021); or
 6. meets the definition of “health insurance information” set forth in California Civil Code section 1798.29, subdivision (h)(3) (2021); or
 7. is protected from disclosure under applicable state or federal law.
- F. Security Incident: “Security Incident” means:
1. an attempted breach; or
 2. the attempted or successful unauthorized access or disclosure, modification or destruction of DSH PCI, in violation of any state or federal

law or in a manner not permitted under the agreement between Contractor and DSH, including this Exhibit; or

3. the attempted or successful modification or destruction of, or interference with, Contractor's system operations in an information technology system, that negatively impacts the confidentiality, availability or integrity of DSH PCI; or
4. any event that is reasonably believed to have compromised the confidentiality, integrity, or availability of an information asset, system, process, data storage, or transmission. Furthermore, an information security incident may also include an event that constitutes a violation or imminent threat of violation of information security policies or procedures, including acceptable use policies.

G. Use: "Use" means the sharing, employment, application, utilization, examination, or analysis of information.

- IV. Disclosure Restrictions: The Contractor and its employees, agents, and subcontractors shall protect from unauthorized disclosure any DSH PCI. The Contractor shall not disclose, except as otherwise specifically permitted by the agreement between Contractor and DSH (including this Exhibit), any DSH PCI to anyone other than DSH personnel or programs without prior written authorization from the DSH Program Contract Manager, except if disclosure is required by State or Federal law.
- V. Use Restrictions: The Contractor and its employees, agents, and subcontractors shall not use any DSH PCI for any purpose other than performing the Contractor's obligations under its agreement with DSH.
- VI. Safeguards: The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the privacy, confidentiality, security, integrity, and availability of DSH PCI, including electronic or computerized DSH PCI. At each location where DSH PCI exists under Contractor's control, the Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities in performing its agreement with DSH, including this Exhibit, and which incorporates the requirements of Section VII, Security, below. Contractor shall provide DSH with Contractor's current and updated policies within five (5) business days of a request by DSH for the policies.
- VII. Security: The Contractor shall take any and all steps reasonably necessary to ensure the continuous security of all computerized data systems containing DSH PCI. These steps shall include, at a minimum, complying with all of the data

system security precautions listed in the Contractor Data Security Standards set forth in Attachment 1 to this Exhibit.

- VIII. Security Officer: At each place where DSH PCI is located, the Contractor shall designate a Security Officer to oversee its compliance with this Exhibit and to communicate with DSH on matters concerning this Exhibit.
- IX. Training: The Contractor shall provide training on its obligations under this Exhibit, at its own expense, to all of its employees who assist in the performance of Contractor's obligations under Contractor's agreement with DSH, including this Exhibit, or otherwise use or disclose DSH PCI.
- A. The Contractor shall require each employee who receives training to certify, either in hard copy or electronic form, the date on which the training was completed.
- B. The Contractor shall retain each employee's certifications for DSH inspection for a period of three years following contract termination or completion.
- C. Contractor shall provide DSH with its employee's certifications within five (5) business days of a request by DSH for the employee's certifications.
- X. Employee Discipline: Contractor shall impose discipline that it deems appropriate (in its sole discretion) on such employees and other Contractor workforce members under Contractor's direct control who intentionally or negligently violate any provisions of this Exhibit.
- XI. Contractor CCPA Responsibilities: Contractor, its employees, agents, and sub-contractors, shall comply with all Contractor's legal obligations pursuant to the California Consumer Privacy Protection Act (CCPA), including but not limited to the handling and disclosure of personal information received resulting from this agreement, abiding by CCPA notice requirements on Contractor's website(s), safeguarding personal information received in connection with this agreement, refraining from using personal information received in connection with this agreement outside of the enumerated business purpose contained therein. Contractor's failure to comply with such laws and regulations shall constitute a material breach of this Agreement, and shall be grounds for immediate termination of the Agreement by DSH, pursuant to section 7 of Exhibit C. By executing this Agreement, Contractor certifies that it is aware of its legal obligations as set forth under the CCPA, that it is in compliance with the CCPA, and shall remain in compliance with all such laws and regulations for the term of this Agreement.

To the fullest extent permitted by State law, pursuant to section 5 of Exhibit C of this Agreement, Contractor agrees to indemnify and hold the DSH harmless from and against any and all liability, loss, suit, damage or claim, including third party

claims brought against the DSH, as well as damages and reasonable costs assessed against the DSH by a court of competent jurisdiction (or, at Contractor's option, that are included in a settlement of such claim or action in accordance herewith), to the extent such claim arises from Contractor's violation of the CCPA in relation to Contractor's performance under this agreement; provided, that (i) Contractor is notified promptly in writing of the claim; (ii) Contractor controls the defense and settlement of the claim; (iii) Contractor provides a defense with counsel approved by the DSH; and (iv) the DSH cooperates with all reasonable requests of Contractor (at Contractor's expense) in defending or settling the claim.

XII. Breach and Security Incident Responsibilities:

- A. Notification to DSH of Breach or Security Incident: The Contractor shall notify DSH **immediately by telephone call plus email or fax** upon the discovery of a breach (as defined in this Exhibit), **and within twenty-four (24) hours by email or fax** of the discovery of any security incident (as defined in this Exhibit), unless a law enforcement agency determines that the notification will impede a criminal investigation, in which case the notification required by this section shall be made to DSH immediately after the law enforcement agency determines that such notification will not compromise the investigation. Notification shall be provided to the DSH Program Contract Manager, the DSH Privacy Officer and the DSH Chief Information Security Officer, using the contact information listed in Section XI(F), below. If the breach or security incident is discovered after business hours or on a weekend or holiday and involves DSH PCI in electronic or computerized form, notification to DSH shall be provided by calling the DSH Information Security Office at the telephone numbers listed in Section XI(F), below. For purposes of this Section, breaches and security incidents shall be treated as discovered by Contractor as of the first day on which such breach or security incident is known to the Contractor, or, by exercising reasonable diligence would have been known to the Contractor. Contractor shall be deemed to have knowledge of a breach if such breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the breach, who is an employee or agent of the Contractor.

Contractor shall take:

1. prompt corrective action to mitigate any risks or damages involved with the breach or security incident and to protect the operating environment; and
2. any action pertaining to a breach required by applicable federal and state laws, including, specifically, California Civil Code sections 1798.29 and 1798.82 (2021).

- B. Investigation of Breach and Security Incidents: The Contractor shall immediately investigate such breach or security incident. As soon as the information is known and subject to the legitimate needs of law enforcement, Contractor shall inform the DSH Program Contract Manager, the DSH Privacy Officer, and the DSH Chief Information Security Officer of:
1. what data elements were involved, and the extent of the data disclosure or access involved in the breach, including, specifically, the number of individuals whose personal information was breached; and
 2. a description of the unauthorized persons known or reasonably believed to have improperly used the DSH PCI and/or a description of the unauthorized persons known or reasonably believed to have improperly accessed or acquired the DSH PCI, or to whom it is known or reasonably believed to have had the DSH PCI improperly disclosed to them; and
 3. a description of where the DSH PCI is believed to have been improperly used or disclosed; and
 4. a description of the probable and proximate causes of the breach or security incident; and
 5. whether Civil Code sections 1798.29 and 1798.82 (2021) or any other federal or state laws requiring individual notifications of breaches have been triggered.
- C. Written Report: The Contractor shall provide a written report of the investigation to the DSH Program Contract Manager, the DSH Privacy Officer, and the DSH Chief Information Security Officer as soon as practicable after the discovery of the breach or security incident. The report shall include, but not be limited to, the information specified above, as well as a complete, detailed corrective action plan, including information on measures that were taken to halt and/or contain the breach or security incident, and measures to be taken to prevent the recurrence or further disclosure of data regarding such breach or security incident.
- D. Notification to Individuals: If notification to individuals whose information was breached is required under state or federal law, and regardless of whether Contractor is considered only a custodian and/or non-owner of the DSH PCI, Contractor shall, at its sole expense, and at the sole election of DSH, either:
1. make notification to the individuals affected by the breach (including substitute notification), pursuant to the content and timeliness provisions of such applicable state or federal breach notice laws. Contractor shall inform the DSH Privacy Officer of the time, manner and content of any such

notifications, prior to the transmission of such notifications to the individuals; or

2. cooperate with and assist DSH in its notification (including substitute notification) to the individuals affected by the breach.

E. Submission of Sample Notification to Attorney General: If notification to more than 500 individuals is required pursuant to California Civil Code section 1798.29 or 1798.82 (2021), and regardless of whether Contractor is considered only a custodian and/or non-owner of the DSH PCI, Contractor shall, at its sole expense, and at the sole election of DSH, either:

1. electronically submit a single sample copy of the security breach notification, excluding any personally identifiable information, to the Attorney General pursuant to the format, content and timeliness provisions of Section 1798.29, subdivision (e), or 1798.82, subdivision (f) (2021). Contractor shall inform the DSH Privacy Officer of the time, manner and content of any such submissions, prior to the transmission of such submissions to the Attorney General; or
2. cooperate with and assist DSH in its submission of a sample copy of the notification to the Attorney General.

F. DSH Contact Information: To direct communications to the above referenced DSH staff, the Contractor shall initiate contact as indicated herein. DSH reserves the right to make changes to the contact information below by verbal or written notice to the Contractor. Said changes shall not require an amendment to this Exhibit or the agreement to which it is incorporated.

DSH Contract Manager	DSH Privacy Officer	DSH Chief Information Security Officer
See Exhibit A - Scope of Work for Contract Manager contact information	Privacy Officer Office of Legal Services California Dept. State Hospitals 1215 O Street, MS-5 Sacramento, CA 95814 Email: Yamin.Scardigli@dsh.ca.gov Telephone: (916) 562-3721	Chief Information Security Officer Information Security Office 1215 O Street, MS-4 Sacramento, CA 95814 Email: iso@dsh.ca.gov and security@dsh.ca.gov Telephone: 916-654-4218

XIII. Documentation of Disclosures for Requests for Accounting: Contractor shall document and make available to DSH or (at the direction of DSH) to an Individual such disclosures of DSH PCI, and information related to such disclosures,

necessary to respond to a proper request by the subject Individual for an accounting of disclosures of personal information as required by Civil Code section 1798.25 (2021), or any applicable state or federal law.

- XIV. Requests for DSH PCI by Third Parties: The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DSH Program Contract Manager all requests for disclosure of any DSH PCI requested by third parties to the agreement between Contractor and DSH (except from an Individual for an accounting of disclosures of the individual's personal information pursuant to applicable state or federal law), unless prohibited from doing so by applicable state or federal law.
- XV. Audits, Inspection and Enforcement: DSH may inspect the facilities, systems, books and records of Contractor to monitor compliance with this Exhibit. Contractor shall promptly remedy any violation of any provision of this Exhibit and shall certify the same to the DSH Program Contract Manager in writing.
- XVI. Return or Destruction of DSH PCI on Expiration or Termination: Upon expiration or termination of the agreement between Contractor and DSH for any reason, Contractor shall securely return or destroy the DSH PCI. If return or destruction is not feasible, Contractor shall provide a written explanation to the DSH Program Contract Manager, the DSH Privacy Officer and the DSH Chief Information Security Officer, using the contact information listed in Section XI(F), above.
- A. Retention Required by Law: If required by state or federal law, Contractor may retain, after expiration or termination, DSH PCI for the time specified as necessary to comply with the law.
- B. Obligations Continue Until Return or Destruction: Contractor's obligations under this Exhibit shall continue until Contractor destroys the DSH PCI or returns the DSH PCI to DSH; provided however, that on expiration or termination of the agreement between Contractor and DSH, Contractor shall not further use or disclose the DSH PCI except as required by state or federal law.
- C. Notification of Election to Destroy DSH PCI: If Contractor elects to destroy the DSH PCI, Contractor shall certify in writing within 30 days of the expiration or termination of the agreement to the DSH Program Contract Manager, the DSH Privacy Officer and the DSH Chief Information Security Officer, using the contact information listed in Section XI(F), above, that the DSH PCI has been securely destroyed. The notice shall include the date and type of destruction method used.
- XVII. Amendment: The parties acknowledge that federal and state laws regarding information security and privacy rapidly evolves and that amendment of this Exhibit may be required to provide for procedures to ensure compliance with

such laws. The parties specifically agree to take such action as is necessary to implement new standards and requirements imposed by regulations and other applicable laws relating to the security or privacy of DSH PCI. The parties agree to promptly enter into negotiations concerning an amendment to this Exhibit consistent with new standards and requirements imposed by applicable laws and regulations.

- XVIII. Assistance in Litigation or Administrative Proceedings: Contractor shall make itself and any subcontractors, workforce employees or agents assisting Contractor in the performance of its obligations under the agreement between Contractor and DSH, available to DSH at no cost to DSH to testify as witnesses, in the event of litigation or administrative proceedings being commenced against DSH, its director, officers or employees based upon claimed violation of laws relating to security and privacy, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, workforce employee or agent is a named adverse party.
- XIX. No Third-Party Beneficiaries: Nothing express or implied in the terms and conditions of this Exhibit is intended to confer, nor shall anything herein confer, upon any person other than DSH or Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.
- XX. Interpretation: The terms and conditions in this Exhibit shall be interpreted as broadly as necessary to implement and comply with regulations and applicable State laws. The parties agree that any ambiguity in the terms and conditions of this Exhibit shall be resolved in favor of a meaning that complies and is consistent with federal and state laws and regulations.
- XXI. Survival: If Contractor does not return or destroy the DSH PCI upon the expiration or termination of the Agreement, the respective rights and obligations of Contractor under Sections VI, VII and XI of this Exhibit shall survive the completion or termination of the agreement between Contractor and DSH.

Attachment 1
Contractor Data Security Standards**1. General Security Controls**

- A. **Confidentiality Statement.** All persons that will be working with DSH PCI must sign a confidentiality statement. The statement must include at a minimum, General Use, Security and Privacy safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to DSH PCI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for DSH inspection for a period of three (3) years following contract termination.
- B. **Background check.** Before a member of the Contractor's workforce may access DSH PCI, Contractor must conduct a thorough background check of that worker and evaluate the results to assure that there is no indication that the worker may present a risk for theft of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.
- C. **Workstation/Laptop encryption.** All workstations and laptops that process and/or store DSH PCI must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher. The encryption solution must be full disk unless approved by the DSH Information Security Office.
- D. **Server Security.** Servers containing unencrypted DSH PCI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- E. **Minimum Necessary.** Only the minimum necessary amount of DSH PCI required to perform necessary business functions may be copied, downloaded, or exported.
- F. **Removable media devices.** All electronic files that contain DSH PCI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, smart devices tapes etc.). PCI must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher
- G. **Antivirus software.** All workstations, laptops and other systems that process and/or store DSH PCI must install and actively use a comprehensive anti-virus software solution with automatic updates scheduled at least daily.

- H. **Patch Management.** All workstations, laptops and other systems that process and/or store DSH PCI must have operating system and application security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.
- I. **User IDs and Password Controls.** All users must be issued a unique user name for accessing DSH PCI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password. Passwords are not to be shared. Must be at least eight characters. Must be a non-dictionary word. Must not be stored in readable format on the computer. Must be changed every 60 days. Must be changed if revealed or compromised. Must be composed of characters from at least three of the following four groups from the standard keyboard:
- Upper case letters (A-Z)
 - Lower case letters (a-z)
 - Arabic numerals (0-9)
 - Non-alphanumeric characters (punctuation symbols)
- J. **Data Sanitization.** All DSH PCI must be sanitized using NIST Special Publication 800-88 standard methods for data sanitization when the DSH PCI is no longer needed.

2. System Security Controls

- A. **System Timeout.** The system must provide an automatic timeout, requiring reauthentication of the user session after no more than 20 minutes of inactivity.
- B. **Warning Banners.** All systems containing DSH PCI must display a warning banner each time a user attempts access, stating that data is confidential, systems are logged, and system use is for business purposes only. User must be directed to log off the system if they do not agree with these requirements.
- C. **System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for DSH PCI, or which alters DSH PCI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. This logging must be included for all user privilege levels including, but not limited to, systems administrators. If DSH PCI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.

- D. **Access Controls.** The system must use role based access controls for all user authentications, enforcing the principle of least privilege.
- E. **Transmission encryption.** All data transmissions of DSH PCI outside the contractor's secure internal network must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher. Encryption can be end to end at the network level, or the data files containing DSH PCI can be encrypted. This requirement pertains to any type of DSH PCI in motion such as website access, file transfer, and E-Mail.
- F. **Intrusion Detection.** All systems involved in accessing, holding, transporting, and protecting DSH PCI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

3. Audit Controls

- A. **System Security Review.** All systems processing and/or storing DSH PCI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews shall include vulnerability scanning tools.
- B. **Log Reviews.** All systems processing and/or storing DSH PCI must have a routine procedure in place to review system logs for unauthorized access.
- C. **Change Control.** All systems processing and/or storing DSH PCI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

4. Business Continuity / Disaster Recovery Controls

- A. **Disaster Recovery.** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic DSH PCI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this agreement for more than 24 hours.
- B. **Data Backup Plan.** Contractor must have established documented procedures to securely backup DSH PCI to maintain retrievable exact copies of DSH PCI. The backups shall be encrypted. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and the amount of time to restore DSH PCI should it be lost.

At a minimum, the schedule must be a weekly full backup and monthly offsite storage of DSH data.

5. Paper Document Controls

- A. **Supervision of Data.** DSH PCI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. DSH PCI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- B. **Escorting Visitors.** Visitors to areas where DSH PCI is contained shall be escorted and DSH PHI shall be kept out of sight while visitors are in the area.
- C. **Confidential Destruction.** DSH PCI must be disposed of through confidential means, using NIST Special Publication 800-88 standard methods for data sanitization when the DSH PSCI is no longer needed.
- D. **Removal of Data.** DSH PCI must not be removed from the premises of the Contractor except with express written permission of DSH.
- E. **Faxing.** Faxes containing DSH PCI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending.
- F. **Mailing.** DSH PCI shall only be mailed using secure methods. Large volume mailings of DSH PHI shall be by a secure, bonded courier with signature required on receipt. Disks and other transportable media sent through the mail must be encrypted with a DSH approved solution, such as a solution using a vendor product specified on the CALIFORNIA STRATEGIC SOURCING INITIATIVE.

Revised 9/8/2021

CCC 04/2017

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

State of California
Financial Information System for California (FI\$Cal)
GOVERNMENT AGENCY TAXPAYER ID FORM

2000 Evergreen Street, Suite 215
Sacramento, CA 95815
www.fiscal.ca.gov
1-855-347-2250



The principal purpose of the information provided is to establish the unique identification of the government entity.

Instructions: You may submit one form for the principal government agency and all subsidiaries sharing the same TIN. Subsidiaries with a different TIN must submit a separate form. Fields bordered in red are required. Hover over fields to view help information. Please print the form to sign prior to submittal. You may email the form to: vendors@fiscal.ca.gov, or fax it to (916) 576-5200, or mail it to the address above.

Principal Government Agency Name

Remit-To Address (Street or PO Box)

City State Zip Code+4

Government Type: City County Special District Federal Other (Specify) Federal Employer Identification Number (FEIN)

List other subsidiary Departments, Divisions or Units under your principal agency's jurisdiction who share the same FEIN and receives payment from the State of California.

Dept/Division/Unit Name Complete Address

Dept/Division/Unit Name Complete Address

Dept/Division/Unit Name Complete Address

Dept/Division/Unit Name Complete Address

Contact Person Title

Phone number E-mail address

Signature Date



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: Social Services

TIME REQUIRED

SUBJECT Amendment to Contract with County of Inyo for an Increase in Funds Related to the Senior Services Program

PERSONS APPEARING BEFORE THE BOARD

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Amendment #1 to contract between County of Inyo and County of Mono for an increase in funds related to the Senior Services Program for period ending FY 2023-24.

RECOMMENDED ACTION:

Approve the proposed contract Amendment #1 to the contract with Inyo County for senior services for the period July 1, 2020, through June 30, 2024, and authorize the Board Chair to execute such Amendment on behalf of the County.

FISCAL IMPACT:

The proposed contract amendment provides an overall increase in funding for Mono County for fiscal years 2022-23 and 2023-24. The total contract limit amount for July 1, 2020, through June 30, 2024, is increased from \$600,000 to \$660,136, an increase of \$60,136.

CONTACT NAME: Kathryn Peterson

PHONE/EMAIL: 7609376518 / kpeterson@mono.ca.gov

SEND COPIES TO:

K Peterson

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
staff report
Amendment

History

Time	Who	Approval
7/17/2023 6:28 PM	County Counsel	Yes
7/25/2023 1:39 PM	Finance	Yes
7/25/2023 1:43 PM	County Administrative Office	Yes



Office of the ... DEPARTMENT OF SOCIAL SERVICES

C O U N T Y O F M O N O

P. O. Box 2969 • Mammoth Lakes • California 93546

KATHRYN PETERSON, MPH
Director

BRIDGEPORT OFFICE
(760) 932-5600
FAX (760) 932-5287

MAMMOTH LAKES OFFICE
(760) 924-1770
FAX (760) 924-5431



To: Mono County Board of Supervisors
From: Kathy Peterson, Social Services Director
Date: August 1, 2023
Re: Amendment #1 to Contract between County of Inyo and County of Mono for an increase in funds related to the Senior Services Program for period ending FY 2023-24

Recommended Action:

Approve the proposed contract Amendment #1 to the contract with Inyo County for senior services for the period July 1, 2020, through June 30, 2024 and authorize the Board Chair to execute such Amendment on behalf of the County.

Discussion:

This Board approved a four-year contract between County of Inyo and County of Mono providing revenues for Mono County Senior Services for a contract period of July 1, 2020, through June 30, 2024.

In June 2022, The California Department of Aging allocated additional funds to Inyo County through the Older Adults Recovery and Resilience Fund. The purpose of these additional funds is to promote intergenerational activities to support the goal of connecting older adults with children, youth, and adults.

Inyo County now wishes to amend the current contract with Mono County to allow us to expand services to include intergenerational activities and increase the reimbursement for such activities.

Please call with any questions. Thank you.

AMENDMENT NUMBER ONE (1) TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
THE COUNTY OF MONO
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and the County of Mono _____, of Bridgeport, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Independent Contractor Services dated February 16, 2021, on County of Inyo Standard Contract No. 116, for the term from July 1, 2020 to June 30, 2024.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

See Attached.

The effective date of this Amendment to the Agreement is June 1, 2023.

All the other terms and conditions of the Agreement are unchanged and remain the same.

AMENDMENT NUMBER ONE (1) TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
THE COUNTY OF MONO
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
1st DAY OF August, 2023.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: _____

Signature

Type or Print

Dated: _____

APPROVED AS TO FORM AND LEGALITY:

Trase Chuchla

County Counsel

APPROVED AS TO ACCOUNTING FORM:

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

Personnel Services

APPROVED AS TO RISK ASSESSMENT:

County Risk Manager

- SECTION 3(D), LIMIT ON AMOUNT PAYABLE UNDER AGREEMENT, is amended as follows:

The “contract limit,” as that term is used in Section 3(D), shall be amended from \$600,000 to \$660,136.00

- ATTACHMENT A, SCOPE OF WORK, is amended to add the following language to the end of Attachment A:

During FY 2022/2023 and FY 2023/2024, with the additional OARR funding, CONTRACTOR shall expand existing services that will be utilized for Intergenerational activities to support the goal of connecting older adults with children, youth, and adults through (OCNP) Older Californians Nutrition Program and Intergenerational Activities.

Before initiating expanded services, CONTRACTOR shall provide a plan to the COUNTY that clearly outlines how services provided with OARR/ OCNP funding will expand current services offered under the original terms of the contract to include Intergenerational Nutrition Activities.

The expansion may include but is not limited to the following:

- Development or maintenance of partnerships and collaborative efforts with programs serving children to foster intergenerational connections between older adults and children.
- Planning, development, or implementation of shared sites with programs serving meals to children to promote intergenerational socialization among the participants.
- Planning, development, or implementation of intergenerational cooking demonstrations or classes to support healthy eating habits.
- Planning, development, or implementation of a shared garden site(s) and intergenerational gardening activities and nutrition education.
- Virtual or in-person lunch companion for OCNP participants to socialize with children, youths, or adults while enjoying a meal.
- Virtual or in-person intergenerational social activities related to the OCNP.

CONTRACTOR shall comply with program monitoring by ESAAA staff as required by the State, or otherwise determined, that includes distinct reporting of expanded services funded with OARR.

Contractor shall submit monthly to County an invoice reflecting allowable expenses incurred by its staff in providing those services:

- Supplies or equipment
- The service units (meals) and unduplicated client count for congregate (C-1) and homedelivered (C-2) meals provided to OCNP clients using OARR funds.
- The service units and estimated participant count for meals provided to intergenerational participants who are ineligible for OCNP meals.

Contractor’s invoices shall not exceed \$60,136.00 annually for year 2023.

Funding for Expanded OARR/OCNP Services is separate from all other Title IIIC/Area Plan funding. Nothing in this amendment is intended to impact or alter the existing provisions in the Schedule of Fees as they pertain to Title IIIC/Area Plan funds.

In the Rooms of the Board of Supervisors

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 16th day of February 2021 an order was duly made and entered as follows:

*HHS-ESAAA –
Mono County
Contract*

Moved by Supervisor Pucci and seconded by Supervisor Totheroh to ratify and approve the contract with the County of Mono for the provision of Eastern Sierra Area Agency on Aging (ESAAA) services to Mono County eligible residents, in the amount of \$600,000 for the period of July 1, 2020 through June 30, 2021, and negotiable for a maximum of three additional fiscal year (one-year) periods, contingent upon the Board's adoption of future budgets, and authorize the Chairperson to sign. Motion carried unanimously.

WITNESS my hand and the seal of said Board this 16th
Day of February, 2021



CLINT G. QUILTER
Clerk of the Board of Supervisors

A handwritten signature in blue ink that reads "Clint G. Quilter".

By: _____

<i>Routing</i>
CC Purchasing Personnel Auditor CAO: Other: HHS DATE: March 2, 2021

**AGREEMENT BETWEEN COUNTY OF INYO AND THE COUNTY OF MONO
FOR THE PROVISION OF SENIOR SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Community-Based Senior services of Mono County Social Services of the County of Mono (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Marilyn Mann, whose title is Director of Health and Human Services. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

2. INITIAL TERM AND OPTIONS.

The initial term of this Agreement shall be from July 1, 2020 to June 30, 2021 unless sooner terminated as provided below. In addition, County shall have three options to extend the Agreement for additional one-year periods as follows:

- a. From July 1, 2021 through June 30, 2022
- b. From July 1, 2022 through June 30, 2023
- c. From July 1, 2023 through June 30, 2024

County may exercise such options by giving written notice to Contractor at least thirty (30) days before the expiration of the Agreement, or an extension thereof.

The notice shall specify the period of the options being exercised. The option to extend shall be upon the same terms and conditions as stated in this Agreement.

3. CONSIDERATION.

A. Compensation. County shall pay to Contractor for the services and work described in Attachment A to be performed by Contractor at the County's request as follows:

Each year, Inyo County receives money from the California Department of Aging (CDA) to fund services provided in Program Service Area (PSA) 16. PSA 16 includes Inyo and Mono Counties. Funds are disbursed from the CDA to Inyo County, and Inyo County passes a certain percentage of the funds on to Mono County. The percentages to be passed on to Mono County are dictated by the PSA 16 Area Plan that is developed and approved by the Eastern Sierra Agency on Aging, the Inyo County Board of Supervisors, and the CDA. Pursuant to the current PSA 16 Area

Plan, the percentages for each service area to be disbursed to Mono County are (these percentages may change with Area Plan updates within the term of the contract):

IIIB Supportive Services: Assisted Transportation - 20% of funds received from CDA
IIIB Supportive Services: Transportation - 14% of funds received from CDA
C1 Congregate Meals - 16% of funds received from CDA
C2 Home Delivered Meals - 20% of funds received from CDA

The parties understand that the exact dollar amount that Inyo County will pay to Mono County under this contract is dependent upon the allocations that Inyo County receives each fiscal year from the CDA. However, the exact dollar amounts shall be dictated by the percentages set forth above.

The parties agree and understand that the CDA releases its annual allocations on or about April of each year, that the CDA releases one-time-only (OTO) monies and/or adjustments on or about September of each year, and that the CDA may be releasing special COVID-19 response monies. The parties agree that all three types of allocations shall be distributed between and Inyo and Mono Counties pursuant to the percentages set forth above. In order to receive its percentage of the CDA allocations, Mono County will submit an Area Plan Budget (CDA 122) to Inyo County each fiscal year within 30 days of Inyo County's receipt of allocations, as required by the CDA.

Inyo County expressly reserves the right to deny any payment or reimbursement requested by Mono County for services or work performed which is in excess of the contract limit.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by Inyo County to Mono County for services and work performed under for all terms of this Agreement shall not exceed six hundred thousand dollars (\$600,000.00).

E. Billing and payment. Contractor will also submit an invoice for the actual monthly expenditures and County of Inyo will reimburse based on the actual expenditures. The monthly invoice shall be submitted by Contractor to County of Inyo by the 20th of the month for services delivered in the previous month, and shall be paid by County of Inyo by the end of the month after the invoice is received. Appropriate backup showing the actual expenditures must also be attached to the invoice.

Contractor will also provide a monthly summary of service activity by the 10th of the following month in the categories in the categories specified in the PSA 16 Area Plan. The monthly summary shall identify units of service provided in each category according to administrative requirements specified by the County. Payment will be conditioned on monthly submission of these service activity reports.

Contractor will submit, as required by the CDA, the Financial Closeout Report (CDA 180) within 25 days following the end of the fiscal year or within 30 days following termination prior to the end of the contract period, unless otherwise specified by the CDA.

Budgets, invoices, service activity reports and close-out reports shall be submitted to Inyo County Health & Human Services, P.O. Drawer A, Independence, CA 93526 or by electronic means specified by the County of Inyo.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety-nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ET CETERA.

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

8. INSURANCE.

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment B and with the provisions specified in that attachment.

9. STATUS OF CONTRACTOR.

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

10. DEFENSE AND INDEMNIFICATION.

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

11. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

12. NONDISCRIMINATION.

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

13. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor ninety (90) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving ninety (90) days written notice of such intent to cancel to County.

14. ASSIGNMENT.

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

15. DEFAULT.

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

16. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-two (22) below.

17. CONFIDENTIALITY.

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written

consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

18. CONFLICTS.

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

19. POST AGREEMENT COVENANT.

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

21. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

22. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

23. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be

required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo
Health and Human Services
PO Drawer H
Independence, CA

Contractor:
County of Mono Social Services
PO Box 576
Bridgeport, CA

24. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN COUNTY OF INYO AND THE COUNTY OF MONO
FOR THE PROVISION OF SENIOR SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS
THIS 2nd DAY OF May, 2021.

COUNTY OF INYO

By: 
Signature

Jeff Griffiths
Print or Type Name

Dated: 03-02-2021

CONTRACTOR

By: 
Signature

Jennifer Kreitz
Print or Type Name

Dated: Feb 4, 2021

APPROVED AS TO FORM AND LEGALITY:

County Counsel


APPROVED AS TO FORM AND LEGALITY:

County Counsel

Stacey Simon (Feb 4, 2021 16:23 PST)

APPROVED AS TO ACCOUNTING FORM:


County Auditor

APPROVED AS TO INSURANCE REQUIREMENTS:


Jacob Sloane (Feb 4, 2021 09:50 PST)
County Risk Manager

APPROVED AS TO PERSONNEL REQUIREMENTS:


Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:


County Risk Manager

ATTACHMENT A

**AGREEMENT BETWEEN COUNTY OF INYO AND THE COUNTY OF MONO
FOR THE PROVISION OF SENIOR SERVICES**

TERM:

FROM: July 1, 2020 TO: June 30, 2021

SCOPE OF WORK:

Contractor will provide the senior services identified in the most current PSA 16 Area Plan (i.e. Home Delivered Meals, Congregate Meals, Transportation and Assisted Transportation) within Mono County according to the requirements of the statutory provisions of the Title III and Title IV Programs [OAA 306] in accordance with State and federal laws and regulations. A copy of the PSA 16 Area Plan is incorporated herein by reference.

Contractor will provide a monthly summary of service activity by the 10th of the following month for Home Delivered Meals, Congregate Meals, Transportation and Assisted Transportation in terms of identified units of service according to administrative requirements specified by the County.

Contractor will participate in annual monitoring for program and fiscal activities. Contractor will provide a copy of their County Single Audit by April 15 each year.

ATTACHMENT B

**AGREEMENT BETWEEN COUNTY OF INYO AND THE COUNTY OF MONO
FOR THE PROVISION OF SENIOR SERVICES**

TERM:

FROM: July 1, 2020 TO: June 30, 2021

SEE ATTACHED INSURANCE PROVISIONS

Attachment B: Insurance Requirements for Professional Services

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence, \$2,000,000 general aggregate.

Additional Insured Status. Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Vendor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

Workers' Compensation: as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. May be waived with signed letter on contractor's letterhead certifying that contractor has no employees.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, Inyo County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Inyo County.

OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Attachment B: Insurance Requirements for Professional Services

Each insurance policy required above shall state that coverage shall not be canceled, except with notice to Inyo County.

Waiver of Subrogation

Contractor hereby grants to Inyo County a waiver of any right to subrogation which any insurer of said Contractor may acquire against Inyo County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Inyo County has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to Inyo County.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

Verification of Coverage

Contractor shall furnish Inyo County with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Inyo County before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Inyo County is an additional insured on insurance required from subcontractors.

Attachment B: Insurance Requirements for Professional Services

Special Risks or Circumstances

Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

-end-



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: Behavioral Health

TIME REQUIRED

SUBJECT Amendment to North American
Mental Health Services (NAMHS)
Contract

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed amendment to contract with North American Mental Health Services (NAMHS) pertaining to Tele-psychiatry and Telehealth Services.

RECOMMENDED ACTION:

Approve, and authorize Chair to sign, contract amendment with North American Mental Health Services for the addition of authorized travel to the scope of work and schedule of fees for the period October 1, 2022, through September 30, 2025.

FISCAL IMPACT:

No additional fiscal impact to the contract. The current contract limit is \$420,000 per 12-month period.

CONTACT NAME: Jessica Workman

PHONE/EMAIL: 760-924-1742 / jworkman@mono.ca.gov

SEND COPIES TO:

jworkman@mono.ca.gov

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
<input type="checkbox"/> Staff Report NAMHS Amendment
<input type="checkbox"/> First Amendment to Agreement with NAMHS
<input type="checkbox"/> NAMHS October 2022- September 2025 Agreement Final

History

Time

Who

Approval

7/17/2023 6:25 PM	County Counsel	Yes
7/25/2023 12:29 PM	Finance	Yes
7/25/2023 1:43 PM	County Administrative Office	Yes



MONO COUNTY BEHAVIORAL HEALTH DEPARTMENT

COUNTY OF MONO

P. O. BOX 2619 MAMMOTH LAKES, CA 93546 (760) 924-1740 FAX: (760) 924-1741

TO: Mono County Board of Supervisors

FROM: Robin Roberts, Mono County Behavioral Health, Director

DATE: August 1, 2023

SUBJECT:

Contract amendment with North American Mental Health Services (NAMHS) for the provision of Tele-Psychiatry and Telehealth Services

DISCUSSION:

Amending the agreement's Scope of Work and Schedule of Fees to include travel provisions for assessment services related to conservatorship. Any travel will be upon request of the Director of Behavioral Health or the Mono County Public Guardian.

FISCAL IMPACT:

No additional fiscal impact. The contracted not to exceed amount in the contracted 12 month period of \$420,000.00, will cover the additional travel costs.

SUBMITTED BY:

Jessica Workman, Mono County Behavioral Health Staff Services Manager, Contact:
760.924.1742

**AGREEMENT AND FIRST AMENDMENT TO
AGREEMENT BETWEEN THE COUNTY OF MONO AND
NATIVE AMERICAN MENTAL HEALTH SERVICES
DBA NORTH AMERICAN MENTAL HEALTH SERVICES
FOR THE PROVISION OF
TELE-PSYCHIATRY AND TELEHEALTH SERVICES**

This Agreement and First Amendment is entered into August ___, 2023, by and between the County of Mono (hereinafter, "County"), a political subdivision of the State of California, and Native American Mental Health Services, dba North American Mental Health Services of Redding, California (hereinafter, "Contractor"), for the purposes of amending that certain Agreement between the County and Contractor entered into on or about October 1, 2022 and pertaining to Contractor's provision of tele-psychiatry and telehealth services to the County (the "Agreement"). The County and Contractor are sometimes referred to herein collectively as "the parties."

WHEREAS, the parties entered into the Agreement for the purpose of Contractor providing tele-psychiatry and telehealth services to inmates of the Mono County Jail and others as requested by the Mono County Department of Behavioral Health; and

WHEREAS, the Agreement did not provide for travel reimbursement by County to Contractor, however, County required Contractor to travel to Mono County to provide services in a conservatorship matter; and

WHEREAS, accordingly, there is a need to amend the Schedule of Fees of the Contract to provide for reimbursement of travel costs associated with the referenced case;

NOW, THEREFORE, the parties agree as follows:

1. The Scope of Work (Exhibit A) is hereby amended to add the following:

"Travel to Mono County or another location as directed, to provide assessment services for individuals for whom a petition to establish conservatorship has been filed, or is proposed to be filed, upon request of the Director of Behavioral Health or Mono County Public Guardian."

2. The Schedule of Fees (Exhibit B) is hereby amended to add the following:

"For travel authorized by and in accordance with the Scope of Work, mileage shall be reimbursed at the IRS rate at the time of travel, meals shall be reimbursed at actual cost, not to exceed \$75.00 per day; and lodging shall be reimbursed at actual cost, not to exceed \$420.00 per day for stays occurring prior to August 1, 2023. For stays occurring after August 1, 2023, lodging shall be reserved and paid for by the County on behalf of Contractor. County shall communicate the lodging location with Contractor prior to making a reservation and Contractor may decline a particular location based on safety concerns. Mileage shall be verified by submission of a map produced by a reputable mapping application or website (e.g., Google Maps) and receipts shall be submitted for meals and lodging."

3. All other provisions of the Agreement not modified herein shall remain in full force and effect.

4. This Agreement and First Amendment may be executed in two (2) or more counterparts (including by electronic transmission), each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument. For purposes of the agreement a photocopy, facsimile, .pdf, and electronically scanned signatures, including but not limited to DocuSign or similar service, shall be deemed to be as valid and as enforceable as an original.

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS AS SET FORTH BELOW.

COUNTY OF MONO:

CONTRACTOR:

Rhonda Duggan, Chair, Mono County Board of Supervisors

Benton Kinney, CFO/owner

Date

07/17/2023

Date

Approved as to Form:

County Counsel

**AGREEMENT BETWEEN COUNTY OF MONO
AND NATIVE AMERICAN MENTAL HEALTH SERVICES DBA NORTH AMERICAN MENTAL
HEALTH SERVICES
FOR THE PROVISION OF TELE-PSYCHIATRY AND TELEHEALTH THERAPY SERVICES**

INTRODUCTION

WHEREAS, the County of Mono (hereinafter referred to as “County”) may have the need for the services of Native American Mental Health Services DBA North American Mental Health Services of Redding, CA (hereinafter referred to as “Contractor”), and in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK

Contractor shall furnish to County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by County to Contractor to perform under this Agreement will be made by the Director of Behavioral Health, or an authorized representative thereof. Requests to Contractor for work or services to be performed under this Agreement will be based upon County's need for such services. County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of Contractor by County under this Agreement. By this Agreement, County incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by Contractor at County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and county laws, ordinances, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those that are referred to in this Agreement.

This Agreement is subject to the following Exhibits (as noted) which are attached hereto, following all referenced Attachments, and incorporated by this reference. In the event of a conflict between the terms of an attached Exhibit and this Agreement, the terms of the Exhibit shall govern:

- Exhibit 1:** General Conditions (Construction)
- Exhibit 2:** Prevailing Wages
- Exhibit 3:** Bond Requirements
- Exhibit 4:** Invoicing, Payment, and Retention
- Exhibit 5:** Trenching Requirements
- Exhibit 6:** FHWA Requirements
- Exhibit 7:** CDBG Requirements
- Exhibit 8:** HIPAA Business Associate Agreement
- Exhibit 9:** Other _____

2. TERM

The term of this Agreement shall be from October 1, 2022, to September 30, 2025, unless sooner terminated as provided below.

3. CONSIDERATION

A. Compensation. County shall pay Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A that are performed by Contractor at County's request.

B. Travel and Per Diem. Contractor will not be paid or reimbursed for travel expenses or per diem that Contractor incurs in providing services and work requested by County under this Agreement, unless otherwise provided for in Attachment B.

C. No Additional Consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by County to Contractor for services and work performed under this Agreement shall not exceed \$1,260,000, not to exceed \$420,000 in any twelve-month period, plus (for public works) the amount of any change order(s) approved in accordance with authority delegated by the Board of Supervisors (hereinafter referred to as "Contract Limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed that is in excess of the Contract Limit.

E. Billing and Payment. Contractor shall submit to County, on a monthly basis, an itemized statement of all services and work described in Attachment A, which were done at County's request. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. Alternatively, Contractor may submit a single request for payment corresponding to a single incident of service or work performed at County's request. All statements submitted in request for payment shall identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Invoicing shall be informative but concise regarding services and work performed during that billing period. Upon finding that Contractor has satisfactorily completed the work and performed the services as requested, County shall make payment to Contractor within 30 days of its receipt of the itemized statement. Should County determine the services or work have not been completed or performed as requested and/or should Contractor produce an incorrect statement, County shall withhold payment until the services and work are satisfactorily completed or performed and/or the statement is corrected and resubmitted.

If Exhibit 4 ("Invoicing, Payment, and Retention") is attached to this Agreement, then the language contained in 4 shall supersede and replace this Paragraph 3.E. in its entirety.

F. Federal and State Taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County shall withhold California state income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed One Thousand Four Hundred Ninety-Nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board.

4. WORK SCHEDULE

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A that are requested by County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor, in arranging his/her schedule, will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS

Any licenses, certificates, or permits required by the federal, state, county, or municipal governments, for Contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits that are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, support services and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

7. COUNTY PROPERTY

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, uniforms, vehicles, reference materials, furniture, appliances, etc. provided to Contractor by County pursuant to this Agreement is, and at the termination of this Agreement remains, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, that is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, videotapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual

presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind that are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement shall remain, the sole and exclusive property of County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

8. INSURANCE

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

A. Minimum Scope and Limit of Insurance. Coverage shall be at least as broad as (please select all applicable):

Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

Workers' Compensation: as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

Worker's Compensation Exempt: Contractor is exempt from obtaining Workers' Compensation insurance because Contractor has no employees. Contractor shall notify County and provide proof of Workers' Compensation insurance to County within 10 days if an employee is hired. Such Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of County for all work performed by Contractor, its employees, agents, and subcontractors. Contractor agrees to defend and indemnify County in case of claims arising from Contractor's failure to provide Workers' Compensation insurance for employees, agents and subcontractors, as required by law.

Professional Liability (Errors and Omissions): Insurance appropriate to the Contractor's profession, with limit no less than \$1,000,000 per occurrence or claim, \$1,000,000 aggregate.

Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$1,000,000 policy aggregate.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

B. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

- (1) **Additional Insured Status:** The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).
- (2) **Primary Coverage:** For any claims related to this contract, the Contractor's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.
- (3) **Umbrella or Excess Policy:** The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.
- (4) **Notice of Cancellation:** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the County.
- (5) **Waiver of Subrogation:** Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.
- (6) **Self-Insured Retentions:** Self-insured retentions must be declared to and approved by the County. The County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$100,000 unless approved in writing by County. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. County may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense

costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. County reserves the right to obtain a copy of any policies and endorsements for verification.

- (7) **Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.
- (8) **Claims Made Policies:** If any of the required policies provide claims-made coverage:
 - a. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
 - c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.
- (9) **Verification of Coverage:** Contractor shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
- (10) **Special Risks or Circumstances:** County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

9. STATUS OF CONTRACTOR

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as an independent contractor, and not as an agent, officer, or employee of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of, or exercise any right or power vested in, County, except as expressly provided by law or set forth in Attachment A. No agent, officer, or employee of County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not, under any circumstances, be construed to create an employer-employee relationship or a joint venture. As an independent contractor:

- A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.
- B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.
- C. Contractor, its agents, officers and employees are, and at all times during the term of this Agreement shall represent and conduct themselves as, independent contractors, and not employees of County.

9. DEFENSE AND INDEMNIFICATION

Contractor shall defend with counsel acceptable to County, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from or in connection with, the performance of this Agreement by Contractor, or Contractor's agents, officers, or employees. Contractor's obligation to defend, indemnify, and hold County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, damage or destruction to tangible or intangible property, including the loss of use. Contractor's obligation under this Paragraph 11 extends to any claim, damage, loss, liability, expense, or other costs that are caused in whole or in part by any act or omission of Contractor, its agents, employees, supplier, or anyone directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Contractor's obligation to defend, indemnify, and hold County, its agents, officers, and employees harmless under the provisions of this Paragraph 11 is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance and shall survive any termination or expiration of this Agreement.

10. RECORDS AND AUDIT

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this Paragraph 12 by substitute photographs, micrographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, that County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

11. NONDISCRIMINATION

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religious creed, color, ancestry, national origin, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act.

12. TERMINATION

This Agreement may be terminated by County without cause, and at will, for any reason by giving to Contractor thirty (30) calendar days written notice of such intent to terminate. Contractor may terminate this Agreement without cause, and at will, for any reason whatsoever by giving to County thirty (30) calendar days written notice of such intent to terminate.

Notwithstanding the foregoing, if this Agreement is subject to General Conditions (set forth as an Exhibit hereto), then termination shall be in accordance with the General Conditions and this Paragraph 14 shall not apply.

13. ASSIGNMENT

This is an agreement for the personal services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any moneys due or to become due under this Agreement without the prior written consent of County.

14. DEFAULT

If Contractor abandons the work, fails to proceed with the work or services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, then County may declare Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

15. WAIVER OF DEFAULT

Waiver of any default by either party to this Agreement shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in Paragraph 23.

16. CONFIDENTIALITY

Contractor agrees to comply with various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential, all such privileged, restricted or confidential information and records obtained in the course of providing the work and services under this Agreement. Disclosure of such information or records shall be made by Contractor only with the express written consent of County.

17. CONFLICTS

Contractor agrees that he/she has no interest, and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of the work and services under this Agreement. Contractor agrees to complete and file a conflict-of-interest statement.

18. POST-AGREEMENT COVENANT

Contractor agrees not to use any confidential, protected, or privileged information that is gained from County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two (2) years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with County, or who has been an adverse party in

litigation with County, and concerning such, Contractor by virtue of this Agreement has gained access to County's confidential, privileged, protected, or proprietary information.

19. SEVERABILITY

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, then the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

20. FUNDING LIMITATION

The ability of County to enter into this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to terminate, reduce, or modify this Agreement, or any of its terms within ten (10) days of notifying Contractor of the termination, reduction, or modification of available funding. Any reduction or modification of this Agreement effective pursuant to this provision must comply with the requirements of Paragraph 23.

21. AMENDMENT

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change order is in written form, and executed with the same formalities as this Agreement or in accordance with delegated authority therefor, and attached to the original Agreement to maintain continuity.

22. NOTICE

Any notice, communication, amendments, additions or deletions to this Agreement, including change of address of any party during the term of this Agreement, which Contractor or County shall be required, or may desire to make, shall be in writing and may be personally served, or sent by prepaid first-class mail or email (if included below) to the respective parties as follows:

County of Mono:
Robin K. Roberts, Director
Mono County Behavioral Health
P.O. Box 2619
Mammoth Lakes, CA 93546

Contractor:
Native American Mental Health Services DBA North American Mental Health
Services
1742 Oregon Street
Redding, CA 96001
CLICK HERE TO ENTER TEXT

23. COUNTERPARTS

This Agreement may be executed in two (2) or more counterparts (including by electronic transmission), each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument.

24. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless executed in writing by the parties hereto.

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS, EFFECTIVE AS OF THE DATE LAST SET FORTH BELOW, OR THE COMMENCEMENT DATE PROVIDED IN PARAGRAPH 2 OF THIS AGREEMENT, WHICHEVER IS EARLIER.

COUNTY OF MONO

By: Robert C. Lewis

Title: CAO

Dated: Oct 6, 2022

CONTRACTOR

By: Thomas J. Andrews, M.D.
Thomas J. Andrews, M.D. (Aug 31, 2022 17:02 PDT)

Title: CEO

Dated: Aug 31, 2022

By: Benton Kinney PA
Benton Kinney PA (Aug 31, 2022 17:44 PDT)

Title: CFO

Dated: Aug 31, 2022

APPROVED AS TO FORM:

E. Smith

County Counsel

APPROVED BY RISK MANAGEMENT:

J. Stone

Risk Manager

ATTACHMENT A

**AGREEMENT BETWEEN COUNTY OF MONO
AND NATIVE AMERICAN MENTAL HEALTH SERVICES DBA NORTH AMERICAN MENTAL
HEALTH SERVICES
FOR THE PROVISION OF TELE-PSYCHIATRY AND TELEHEALTH THERAPY SERVICES**

TERM:

FROM: October 1, 2022 TO: September 30, 2025

SCOPE OF WORK:

1. Services. Pursuant to the terms of this Agreement, Contractor shall employ, or otherwise arrange for, services of provider(s), to conduct Tele-psychiatry and Telehealth therapy and on-site visits for the purpose of delivering direct patient care services, as agreed upon by both parties.

1.1 Professional Medical Services. The County hereby grants the right to Contractor to employ, or otherwise arrange for the services of, provider(s), and hereby grants the right to provide professional medical services. Services shall include:

1.1.1 Psychiatry services of Tele-psychiatry, consisting of psychiatric/medication evaluations, prescribing and monitoring medications for clients with mental health and substance abuse disorders.

1.1.2 Services may include psychological evaluation and testing through Tele-psychiatry on an as-needed basis.

1.2 Contractor Services. Contractor to render the following services:

1.2.1 Psychiatric evaluation and follow up, including laboratory evaluation

1.2.2 Pharmaceutical Management including medication pre-authorizations

1.2.3 Drug and alcohol treatment when necessary

1.2.4 Child and adolescent treatment along with the follow up and management

1.2.5 Refills of medication with the assistance of the County, the Mono County Jail and/or Mono County Behavioral Health, if needed. Provide consultation for "call backs", which are screened by the County. Phone consultation will be provided on an as needed basis for emergency or urgent evaluations.

1.2.6 NAMHS will supply therapists to consult or provide therapy to the County's patients on an as-needed basis. The therapy may consist of many types of therapy, not limited to but may include, EMDR, Brain Spotting, Play Therapy, PTSD and Drug and Alcohol. Services may include assessment, treatment planning, safety planning, and/or other duties as assigned. These therapeutic services will be provided during scheduled times mutually agreed upon by both parties. The County shall manage the schedule on a daily basis.

Contractor's therapists shall chart within the County EMR within 48 hours of time of service.

1.3 Duties of Contractor. During the term of this agreement, Contractor shall have the obligation to:

1.3.1 The above services will be performed at the Mono County Jail onsite or through Telemedicine/Telehealth on an as needed basis, as deemed appropriate by the parties.

1.3.2 Use of Mono County Behavioral Health Electronic Health Record (EHR). Contractor shall document services provided under this Agreement in Mono County/Jail EHR no more than 30 days from date of service.

1.3.4 Notwithstanding the Insurance provisions in Paragraph 9 above, Contractor shall provide malpractice coverage of \$1,000,000,000 and \$3,000,000,000 respectively, for each psychiatric provider employed by contractor.

ATTACHMENT B

**AGREEMENT BETWEEN COUNTY OF MONO
AND NATIVE AMERICAN MENTAL HEALTH SERVICES DBA NORTH AMERICAN MENTAL
HEALTH SERVICES
FOR THE PROVISION OF TELE-PSYCHIATRY AND TELEHEALTH THERAPY SERVICES**

TERM:

FROM: October 1, 2022 TO: September 30, 2025

SCHEDULE OF FEES:

- Contractor shall provide County with all necessary information regarding the delivery of medical services to assist the County in charging the clients' professional fees for the Telepsychiatric and Telehealth therapy Services, which shall be consistent with and shall not exceed the usual, customary and reasonable community standards for medical services.
- The County agrees to provide compensation to Contractor and Contractor agrees to accept compensation at the following rates:
 - \$220 per hour of Tele-psychiatric Services provided to clients of Mono County by Pas/NP providers in accordance with this Agreement.
 - \$260 per hour of Tele-psychiatric Services provided to clients of Mono County by MD providers in accordance with this Agreement.
 - \$175 per hour of Tele-therapy Services provided to clients of Mono County by qualified providers in accordance with this Agreement.
 - If the provider works at least 5 hours, one additional hour will be billed for each date of service, at the rate of the provider type. If the provider works less than 5 hours, one additional half hour will be billed for each date of service, at the rate of the provider type.

**AGREEMENT BETWEEN COUNTY OF MONO
AND NATIVE AMERICAN MENTAL HEALTH SERVICES DBA NORTH AMERICAN
MENTAL HEALTH SERVICES
FOR THE PROVISION OF TELE-PSYCHIATRY AND TELEHEALTH THERAPY
SERVICES**

HIPAA BUSINESS ASSOCIATE AGREEMENT

This Attachment shall constitute the Business Associate Agreement (the “Agreement”) between Native American Mental Health Services DBA North American Mental Health Services, (the “Business Associate”) and the County of Mono (the “Covered Entity”), and applies to the functions Business Associate will perform on behalf of Covered Entity (collectively, “Services”), that are identified in the Master Agreement (as defined below).

1. **Purpose.** This Agreement is intended to ensure that the Business Associate will establish and implement appropriate privacy and security safeguards with respect to “Protected Health Information” (as defined below) that the Business Associate may create, receive, use, or disclose in connection with the Services to be provided by the Business Associate to the Covered Entity, and that such safeguards will be consistent with the standards set forth in regulations promulgated under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”) as amended by the Health Information Technology for Economic and Clinical Health Act as set forth in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (“HITECH Act”).

2. **Regulatory References.** All references to regulatory Sections, Parts and Subparts in this Agreement are to Title 45 of the Code of Federal Regulations as in effect or as amended, and for which compliance is required, unless otherwise specified.

3. **Definitions.** Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms defined in Sections 160.103, 164.304 and 164.501.

(a) **Business Associate.** “Business Associate” shall mean the party identified above as the “Business Associate”.

(b) **Breach.** “Breach” shall have the same meaning as the term “breach” in Section 164.402.

(c) **Covered Entity.** “Covered Entity” shall mean the County of Mono, a hybrid entity, and its designated covered components, which are subject to the Standards for Privacy and Security of Individually Identifiable Health Information set forth in Parts 160 and 164.

(d) **Designated Record Set.** “Designated Record Set” shall have the same meaning as the term “designated record set” in Section 164.501.

(e) **Electronic Protected Health Information.** “Electronic Protected Health Information” (“EPHI”) is a subset of Protected Health Information and means individually identifiable health information that is transmitted or maintained in electronic media, limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.

(f) **Individual.** “Individual” shall have the same meaning as the term “Individual” in Section 160.103 and shall include a person who qualifies as a personal representative in

accordance with Section 164.502(g).

(g) Master Agreement. “Master Agreement” shall mean the contract or other agreement to which this Attachment is attached and made a part of.

(h) Minimum Necessary. “Minimum Necessary” shall mean the minimum amount of Protected Health Information necessary for the intended purpose, as set forth at Section 164.514(d)(1): *Standard: Minimum Necessary Requirements*.

(i) Privacy Rule. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at Part 160 and Part 164, Subparts A and E.

(j) Protected Health Information. “Protected Health Information” shall have the same meaning as the term “protected health information” in Section 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

(k) Required By Law. “Required by law” shall have the same meaning as the term “required by law” in Section 164.103.

(l) Secretary. “Secretary” shall mean the Secretary of the United States Department of Health and Human Services (“DHHS”) or his/her designee.

(m) Security Incident. “Security Incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system, but does not include minor incidents that occur on a daily basis, such as scans, “pings”, or unsuccessful random attempts to penetrate computer networks or servers maintained by Business Associate.

(n) Security Rule. “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

(o) Unsecured Protected Health Information. “Unsecured Protected Health Information” shall have the same meaning as the term “unsecured protected health information” in Section 164.402, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

4. **Compliance with the HIPAA Privacy and Security Rules.**

(a) Business Associate acknowledges that it is required by Sections 13401 and 13404 of the HITECH Act to comply with the HIPAA Security Rule, Sections 164.308 through 164.316, and the use and disclosure provisions of the HIPAA Privacy Rule, Sections 164.502 and 164.504.

(b) Business Associate agrees not to use or further disclose Protected Health Information other than as permitted or required by this Agreement, or as required by law.

5. **Permitted Uses and Disclosures.**

(a) Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity for the purposes specified in Attachment A to this Exhibit, which if completed and attached hereto is incorporated by reference, or as otherwise specified in the Scope of Work (Attachment A) of the Master Agreement, subject to limiting use and disclosure to applicable minimum necessary rules, regulations and statutes and provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

(b) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

(c) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(d) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by Section 164.504(e)(2)(i)(B).

(e) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities consistent with Section 164.502(j).

6. Appropriate Safeguards.

(a) Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of Protected Health Information other than as provided for by this Agreement. Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Protected Health Information that is created, received, maintained or transmitted on behalf of the Covered Entity and limiting use and disclosure to applicable minimum necessary rules, regulations and statutes.

(b) To the extent practicable, Business Associate will secure all Protected Health Information by technological means that render such information unusable, unreadable, or indecipherable to unauthorized individuals and in accordance with any applicable standards or guidance issued by the Department of Health and Human Services under Section 13402 of the HITECH Act.

7. Reporting Unauthorized Uses and Disclosures.

(a) Business Associate agrees to notify Covered Entity of any breach, or security incident involving Unsecured Protected Health Information of which it becomes aware, including any access to, or use or disclosure of Protected Health Information not permitted by this Agreement. Such notification will be made within five (5) business days after discovery and will include, to the extent possible, the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed, a description of the Protected Health Information involved, the nature of the unauthorized access, use or disclosure, the date of occurrence, and a description of any remedial action taken or proposed to be taken by Business Associate. Business Associate will also provide to Covered Entity any other available information that the Covered Entity is required to include in its notification to the Individual under Section 164.404(c) at the time of the initial report or promptly thereafter as the information becomes available.

(b) In the event of a request by law enforcement under Section 164.412, Business Associate may delay notifying Covered Entity for the applicable timeframe.

(c) A breach or unauthorized access, use, or disclosure shall be treated as discovered by the Business Associate on the first day on which such unauthorized access, use, or disclosure is known, or should reasonably have been known, to the Business Associate or to any person, other than the individual committing the unauthorized disclosure, that is an employee, officer,

subcontractor, agent or other representative of the Business Associate.

(d) In meeting its obligations under this section, it is understood that Business Associate is not acting as the Covered Entity's agent. In performance of the work, duties, and obligations and in the exercise of the rights granted under this Agreement, it is understood and agreed that Business Associate is at all times acting as an independent contractor in providing services pursuant to this Agreement and the Master Agreement.

8. Mitigating the Effect of a Breach, Security Incident, or Unauthorized Access, Use or Disclosure of Unsecured Protected Health Information.

(a) Business Associate agrees to mitigate, to the greatest extent possible, any harm that results from the breach, security incident, or unauthorized access, use or disclosure of Unsecured Protected Health Information by Business Associate or its employees, officers, subcontractors, agents, or other representatives.

(b) Following a breach, security incident, or any unauthorized access, use or disclosure of Unsecured Protected Health Information, Business Associate agrees to take any and all corrective action necessary to prevent recurrence, to document any such action, and to make said documentation available to Covered Entity.

(c) Except as required by law, Business Associate agrees that it will not inform any third party of a breach or unauthorized access, use or disclosure of Unsecured Protected Health Information without obtaining the Covered Entity's prior written consent. Covered Entity hereby reserves the sole right to determine whether and how such notice is to be provided to any Individuals, regulatory agencies, or others as may be required by law, regulation or contract terms, as well as the contents of such notice.

9. Indemnification.

(a) Business Associate agrees to hold harmless, defend at its own expense, and indemnify Covered Entity for the costs of any mitigation undertaken by Business Associate pursuant to Section 8, above.

(b) Business Associate agrees to assume responsibility for any and all costs associated with the Covered Entity's notification of Individuals affected by a breach or unauthorized access, use or disclosure by Business Associate or its employees, officers, subcontractors, agents or other representatives when such notification is required by any state or federal law or regulation, or under any applicable contract to which Covered Entity is a party.

(c) Business Associate agrees to hold harmless, defend at its own expense and indemnify Covered Entity and its respective employees, directors, officers, subcontractors, agents or other members of its workforce (each of the foregoing hereinafter referred to as "Indemnified Party") against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this Agreement or from any acts or omissions related to this Agreement by Business Associate or its employees, directors, officers, subcontractors, agents or other members of its workforce. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results from the Business Associate's acts or omissions hereunder. Business Associate's obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement.

10. Individuals' Rights.

(a) Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner designated by the Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual, or a person or entity designated by the Individual in order to meet the requirements under Section 164.524 and HITECH Act Section 13405(e)(1).

(b) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to make pursuant to Section 164.526, at the request of Covered Entity or an Individual, and in the time and manner designated by the Covered Entity.

(c) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

(d) Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, information collected in accordance with Section 10(c) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

(e) Business Associate agrees to comply with any restriction to the use or disclosure of Protected Health Information that Covered Entity agrees to in accordance with Section 164.522.

11. Obligations of Covered Entity.

(a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with Section 164.520, as well as any changes to such notice.

(b) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with Section 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

12. Agents and Subcontractors of Business Associate.

(a) Business Associate agrees to ensure that any agent, subcontractor, or other representative to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees in writing to the same restrictions, conditions and requirements that apply through this Agreement to Business Associate with respect to such information, including the requirement to promptly notify the Business Associate of any instances of unauthorized access to or use or disclosure of Protected Health Information of which it becomes aware. Upon request, Business Associate shall provide copies of such agreements to Covered Entity.

(b) Business Associate shall implement and maintain sanctions against any agent, subcontractor or other representative that violates such restrictions, conditions or requirements and shall mitigate the effects of any such violation.

13. Audit, Inspection, and Enforcement.

(a) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, available to any state or federal agency, including the Secretary, for the purposes of determining compliance with HIPAA and any related regulations or official guidance.

(b) With reasonable notice, Covered Entity and its authorized agents or contractors may audit and/or examine Business Associate's facilities, systems, policies, procedures, and documentation relating to the security and privacy of Protected Health Information to determine compliance with the terms of this Agreement. Business Associate shall promptly correct any violation of this Agreement found by Covered Entity and shall certify in writing that the correction has been made. Covered Entity's failure to detect any unsatisfactory practice does not constitute acceptance of the practice or a waiver of Covered Entity's enforcement rights under this Agreement.

14. Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

15. Term and Termination.

(a) The terms of this Agreement shall remain in effect for the duration of all services provided by Business Associate under the Master Agreement and for so long as Business Associate remains in possession of any Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity unless Covered Entity has agreed in accordance with this section that it is not feasible to return or destroy all Protected Health Information.

(b) Upon termination of the Master Agreement, Business Associate shall recover any Protected Health Information relating to the Master Agreement and this Agreement in its possession and in the possession of its subcontractors, agents or representatives. Business Associate shall return to Covered Entity, or destroy with the consent of Covered Entity, all such Protected Health Information, in any form, in its possession and shall retain no copies. If Business Associate believes it is not feasible to return or destroy the Protected Health Information, Business Associate shall so notify Covered Entity in writing. The notification shall include: (1) a statement that the Business Associate has determined that it is not feasible to return or destroy the Protected Health Information in its possession, and (2) the specific reasons for such determination. If Covered Entity agrees in its sole discretion that Business Associate cannot feasibly return or destroy the Protected Health Information, Business Associate shall ensure that any and all protections, requirements and restrictions contained in the Master Agreement and this Agreement shall be extended to any Protected Health Information for so long as Business Associate maintains such Protected Health Information, and that any further uses and/or disclosures will be limited to the purposes that make the return or destruction of the Protected Health Information infeasible.

(c) Covered entity may immediately terminate the Master Agreement if it determines that Business Associate has violated a material term of this Agreement.

16. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity and Business Associate to comply with the requirements of the HIPAA Privacy and Security Rules and the HITECH Act.

17. **Entire Agreement.** This Attachment constitutes the entire HIPAA Business Associate Agreement between the parties, and supersedes any and all prior HIPAA Business Associate Agreements between them.

18. **Notices.**

(a) All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

(b) Any mailed notice, demand, request, consent, approval or communication that Covered Entity desires to give to Business Associate shall be addressed to Business Associate at the mailing address set forth in the Master Agreement.

(c) Any mailed notice, demand, request, consent, approval or communication that Business Associate desires to give to Covered Entity shall be addressed to Covered Entity at the following address:

Mono County Privacy Officer
Office of County Counsel
P.O. Box 2415
Mammoth Lakes, CA 93546

(d) For purposes of subparagraphs (b) and (c) above, either party may change its address by notifying the other party of the change of address.

19. **Lost Revenues; Penalties/Fines.**

(a) Lost Revenues. Business Associate shall make Covered Entity whole for any revenues lost arising from an act or omission in billing practices by Business Associate.

(b) Penalties/Fines for Failure to Comply with HIPAA. Business Associate shall pay any penalty or fine assessed against Covered Entity arising from Business Associate's failure to comply with the obligations imposed by HIPAA.

(c) Penalties/Fines (other). Business Associate shall pay any penalty or fine assessed against Covered Entity arising from Business Associate's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

HIPAA BUSINESS ASSOCIATE PROVISIONS

Attachment A to Attachment 8

As provided in Paragraph 5 of this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity for the purposes specified below, or as otherwise specified in the Master Agreement authorizing functions, activities, or services for, or on behalf of, Covered Entity, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

Authorized Purposes (in any in addition to the purposes set forth in the Scope of Work):

THIS IS AN OPTIONAL COMPONENT TO THE AGREEMENT AND DEFAULTS TO THE MASTER AGREEMENT SCOPE IF NOT USED.



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: County Administrative Office

TIME REQUIRED

SUBJECT Cancellation of September 19, 2023,
Regular Meeting of the Board of
Supervisors

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Cancellation of the September 19, 2023, Board of Supervisors regular meeting, so that Board members can attend the Rural County Representatives of California meeting.

RECOMMENDED ACTION:

Approve the cancellation of the September 19, 2023, Board of Supervisors regular meeting.

FISCAL IMPACT:

None.

CONTACT NAME: Danielle Patrick

PHONE/EMAIL: 7609325535 / despinosa@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p>No Attachments Available</p>
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History

Time	Who	Approval
7/24/2023 5:39 PM	County Counsel	Yes
7/25/2023 1:39 PM	Finance	Yes
7/25/2023 1:43 PM	County Administrative Office	Yes



OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: Public Works - Solid Waste

TIME REQUIRED

SUBJECT Agreement with Boxx Modular, Inc.

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed contract with Boxx Modular, Inc. pertaining to purchase and installation of a modular gatehouse at Pumice Valley.

RECOMMENDED ACTION:

Approve and authorize Director of Public Works to sign contract and any change orders with Boxx Modular, Inc. for the purchase of a Gatehouse modular structure for the period January 1, 2023, through December 31, 2023, and to pay added sales taxes and provide for work on site to secure the modular structure in a total amount up to \$270,000.

FISCAL IMPACT:

The maximum amount payable to Boxx Modular, Inc. is \$250,000, with an additional \$20,000 estimated to cover sales tax and site preparation work, to be paid from the Solid Waste Enterprise Fund.

CONTACT NAME: Justin Nalder

PHONE/EMAIL: 760-932-5453 / jnalder@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
<input type="checkbox"/> Staff report
<input type="checkbox"/> Agreement with Boxx Modular
<input type="checkbox"/> Boxx Modular Proposal 2
<input type="checkbox"/> Updated Drawing

History

Time	Who	Approval
7/26/2023 10:35 AM	County Counsel	Yes
7/27/2023 9:09 AM	Finance	Yes
7/27/2023 11:41 AM	County Administrative Office	Yes



MONO COUNTY DEPARTMENT OF PUBLIC WORKS SOLID WASTE DIVISION

POST OFFICE BOX 457 • 74 NORTH SCHOOL STREET • BRIDGEPORT, CALIFORNIA 93517
760.932.5440 • FAX 760.932.5441 • monopw@mono.ca.gov • www.monocounty.ca.gov

Date: August 1, 2023
To: Honorable Chair and Members of the Board of Supervisors
From: Justin Nalder, Solid Waste Superintendent
Subject: Agreement with Boxx Modular, Inc. for Gatehouse Construction

Background:

As of January 1, 2023, Pumice Valley Landfill became the primary County landfill for construction and demolition waste, material diversion and recycling, as well as continuing to function as an MSW transfer station.

Discussion:

The existing gatehouse is only large enough to accommodate a single person. Considering that a much larger crew is now working at the Pumice Valley Landfill, and there is a need for expanded gate house with office space, meeting space, break area and bathroom (similar to the gate-house at Benton Crossing Landfill), plans were made to replace the existing gatehouse with something that will better suit the needs of the County. In early 2022 proposals were solicited for a prefabricated gatehouse. A proposal by Boxx Modular Inc. was selected meeting the needs for design, fabrication and installation. In addition to the costs included on the proposal there will be sales tax and work necessary to secure the modular structure at the site.

Work is expected to be completed by December 31, 2023. The scope of work, gatehouse design and cost can be found in the proposal submitted by Boxx Modular (Attachment B).

If you have any questions regarding this item, please contact me at (760) 932-5453.

Respectfully submitted,

Justin Nalder
Solid Waste Superintendent / Fleet Manager / Environmental Manager

Attachments: Attachment A – Agreement between the County of Mono and Boxx Modular, Inc. for the Provision of Gatehouse Construction Services
Attachment B – Boxx Modular, Inc. Proposal
Exhibit 1 - General Conditions
Exhibit 2 - Prevailing Wage
Exhibit 3 - Bond Requirements

**AGREEMENT BETWEEN COUNTY OF MONO
AND BOXX MODULAR, INC.
FOR THE PROVISION OF GATEHOUSE CONSTRUCTION SERVICES**

INTRODUCTION

WHEREAS, the County of Mono (hereinafter referred to as “County”) may have the need for the services of modular building transport and setting of Boxx Modular, Inc. (hereinafter referred to as “Contractor”), and in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK

Contractor shall furnish to County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by County to Contractor to perform under this Agreement will be made by the Director of Public Works, or an authorized representative thereof. Requests to Contractor for work or services to be performed under this Agreement will be based upon County's need for such services. County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of Contractor by County under this Agreement. By this Agreement, County incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by Contractor at County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and county laws, ordinances, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those that are referred to in this Agreement.

This Agreement is subject to the following Exhibits (as noted) which are attached hereto, following all referenced Attachments, and incorporated by this reference. In the event of a conflict between the terms of an attached Exhibit and this Agreement, the terms of the Exhibit shall govern:

- Exhibit 1:** General Conditions (Construction)
- Exhibit 2:** Prevailing Wages
- Exhibit 3:** Bond Requirements
- Exhibit 4:** Invoicing, Payment, and Retention
- Exhibit 5:** Trenching Requirements
- Exhibit 6:** FHWA Requirements
- Exhibit 7:** CDBG Requirements
- Exhibit 8:** HIPAA Business Associate Agreement
- Exhibit 9:** Other _____

2. TERM

The term of this Agreement shall be from January 1, 2023, to December 31, 2023, unless sooner terminated as provided below.

3. CONSIDERATION

A. Compensation. County shall pay Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A that are performed by Contractor at County's request.

B. Travel and Per Diem. Contractor will not be paid or reimbursed for travel expenses or per diem that Contractor incurs in providing services and work requested by County under this Agreement, unless otherwise provided for in Attachment B.

C. No Additional Consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by County to Contractor for services and work performed under this Agreement shall not exceed \$250,000, not to exceed \$250,000 in any twelve-month period, plus (for public works) the amount of any change order(s) approved in accordance with authority delegated by the Board of Supervisors (hereinafter referred to as "Contract Limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed that is in excess of the Contract Limit.

E. Billing and Payment. The County shall pay the as outlined in Attachment B, the Schedule of Fees. Contractor shall submit a request for each payment and shall stipulate what the payment represents. Invoicing shall be informative but concise and shall identify the services and work performed represented by the invoice amount and the date on which those services were performed. Upon finding that Contractor has satisfied its contractual obligations regarding such payment, the County shall make such payment to Contractor as required in Section A above. The County may withhold payment until the services and work represented by the invoice amount are contractually completed. County shall make payment to Contractor within 30 days of receipt of an invoice.

If Exhibit 4 ("Invoicing, Payment, and Retention") is attached to this Agreement, then the language contained in 4 shall supersede and replace this Paragraph 3.E. in its entirety.

F. Federal and State Taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(3) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board.

4. WORK SCHEDULE

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A that are requested by County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor, in arranging his/her schedule, will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS

Any licenses, certificates, or permits required by the federal, state, county, or municipal governments, for Contractor to provide the services and work described in Attachment A must be procured by the Party stipulated in Attachment A to this Agreement. Such licenses, certificates, or permits required of Contractor must be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits that are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, support services and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. Unless provided otherwise in Attachment A to this Agreement, responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

7. COUNTY PROPERTY

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, uniforms, vehicles, reference materials, furniture, appliances, etc. provided to Contractor by County pursuant to this Agreement is, and at the termination of this Agreement remains, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, that is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, videotapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind that are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement shall remain, the sole and exclusive property of County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

8. INSURANCE

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

A. Minimum Scope and Limit of Insurance. Coverage shall be at least as broad as (please select all applicable):

Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

Workers' Compensation: as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

Worker's Compensation Exempt: Contractor is exempt from obtaining Workers' Compensation insurance because Contractor has no employees. Contractor shall notify County and provide proof of Workers' Compensation insurance to County within 10 days if an employee is hired. Such Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of County for all work performed by Contractor, its employees, agents, and subcontractors. Contractor agrees to defend and indemnify County in case of claims arising from Contractor's failure to provide Workers' Compensation insurance for employees, agents and subcontractors, as required by law.

Professional Liability (Errors and Omissions): Insurance appropriate to the Contractor's profession, with limit no less than \$1,000,000 per occurrence or claim, \$1,000,000 aggregate.

Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$1,000,000 policy aggregate.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

B. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

(1) **Additional Insured Status:** The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad

as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

- (2) **Primary Coverage:** For any claims related to this contract, the Contractor's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.
- (3) **Umbrella or Excess Policy:** The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.
- (4) **Notice of Cancellation:** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the County.
- (5) **Waiver of Subrogation:** Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.
- (6) **Self-Insured Retentions:** Self-insured retentions must be declared to and approved by the County. The County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$100,000 unless approved in writing by County. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. County may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. County reserves the right to obtain a copy of any policies and endorsements for verification.
- (7) **Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.
- (8) **Claims Made Policies:** If any of the required policies provide claims-made coverage:
 - a. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.

- b. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
 - c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase “extended reporting” coverage for a minimum of five (5) years after completion of work.
- (9) **Verification of Coverage:** Contractor shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
- (10) **Special Risks or Circumstances:** County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

9. STATUS OF CONTRACTOR

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as an independent contractor, and not as an agent, officer, or employee of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of, or exercise any right or power vested in, County, except as expressly provided by law or set forth in Attachment A. No agent, officer, or employee of County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not, under any circumstances, be construed to create an employer-employee relationship or a joint venture. As an independent contractor:

- A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.
- B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County’s control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.
- C. Contractor, its agents, officers and employees are, and at all times during the term of this Agreement shall represent and conduct themselves as, independent contractors, and not employees of County.

10. DEFENSE AND INDEMNIFICATION

Contractor shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney’s fees, arising out of, resulting from or in connection with, the performance of this Agreement by Contractor, or Contractor’s agents, officers, or employees. Contractor’s obligation to defend, indemnify, and hold County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, damage or destruction to tangible or intangible property, including the loss of use. Contractor’s obligation under this Paragraph extends to any claim, damage, loss, liability, expense, or other costs that are caused in

whole or in part by any act or omission of Contractor, its agents, employees, supplier, or anyone directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Contractor's obligation to defend, indemnify, and hold County, its agents, officers, and employees harmless under the provisions of this Paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance and shall survive any termination or expiration of this Agreement.

11. RECORDS AND AUDIT

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this Paragraph 12 by substitute photographs, micrographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County, with a prior sixty (60) days written Notice to the Contractor shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, that County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

12. NONDISCRIMINATION

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religious creed, color, ancestry, national origin, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act.

13. TERMINATION

This Agreement may be terminated by County without cause, and at will, for any reason by giving to Contractor thirty (30) calendar days written notice of such intent to terminate. Contractor may terminate this Agreement without cause, and at will, for any reason whatsoever by giving to County thirty (30) calendar days written notice of such intent to terminate.

Notwithstanding the foregoing, if this Agreement is subject to General Conditions (set forth as an Exhibit hereto), then termination shall be in accordance with the General Conditions and this Paragraph 13 shall not apply.

In the event of termination under this Paragraph, County shall pay Contractor any past due amounts for work completed at the point of termination.

14. ASSIGNMENT

This is an agreement for the personal services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not

assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any moneys due or to become due under this Agreement without the prior written consent of County.

15. DEFAULT

If Contractor abandons the work, fails to proceed with the work or services described in this Agreement in a timely manner, or fails in any way as required to conduct the work and services as required by Attachment A, then County may declare Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination. The Contractor shall have a reasonable opportunity to cure any Default before termination becomes effective.

16. WAIVER OF DEFAULT

Waiver of any default by either party to this Agreement shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in Paragraph 23.

17. CONFIDENTIALITY

Contractor agrees to comply with various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential, all such privileged, restricted or confidential information and records obtained in the course of providing the work and services under this Agreement. Disclosure of such information or records shall be made by Contractor only with the express written consent of County.

18. CONFLICTS

Contractor agrees that he/she has no interest, and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of the work and services under this Agreement. Contractor agrees to complete and file a conflict-of-interest statement.

19. POST-AGREEMENT COVENANT

Contractor agrees not to use any confidential, protected, or privileged information that is gained from County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement or the benefit, gain, or enhancement of any subsequent contracting party.

20. SEVERABILITY

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, then the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

21. AMENDMENT

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change order is in written form, and executed with the same formalities as this Agreement or in accordance with delegated authority therefor, and attached to the original Agreement to maintain continuity.

22. NOTICE

Any notice, communication, amendments, additions or deletions to this Agreement, including change of address of any party during the term of this Agreement, which Contractor or County shall be required, or may desire to make, shall be in writing and may be personally served, or sent by prepaid first-class mail or email (if included below) to the respective parties as follows:

County of Mono:

Justin Nalder – Solid Waste Superintendent
PO Box 457
Bridgeport, CA 93517
jnalder@mono.ca.gov

Contractor:

Jack DiBenedetto – Major Project Sales Representative
Boxx Modular, Inc.
3475 High River Road, Fort Worth, TX 76155
jdbenedetto@boxxmodular.com

23. COUNTERPARTS

This Agreement may be executed in two (2) or more counterparts (including by electronic transmission), each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument.

24. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless executed in writing by the parties hereto.

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS, EFFECTIVE AS OF THE DATE LAST SET FORTH BELOW, OR THE COMMENCEMENT DATE PROVIDED IN PARAGRAPH 2 OF THIS AGREEMENT, WHICHEVER IS EARLIER .

COUNTY OF MONO

By: _____

Title: _____

Dated: _____

CONTRACTOR

By: Heinz Josef Werner

Title: VP, MSS US

Dated: 07/14/2023

APPROVED AS TO FORM:

County Counsel

APPROVED BY RISK MANAGEMENT:

Risk Manager

ATTACHMENT A

**AGREEMENT BETWEEN COUNTY OF MONO
AND BOXX MODULAR, INC.
FOR THE PROVISION OF GATEHOUSE CONSTRUCTION SERVICES**

TERM:

FROM: JANUARY 1, 2023 TO: DECEMBER 31, 2023

SCOPE OF WORK:

Scope of Work can be found in contractor's proposal Appendix B. All specs must meet current County Code. To the extent that Appendix B contains any terms in conflict with the terms in this Agreement, this Agreement shall control.

SITE ACCESS:

Access to Pumice Valley Landfill / Transfer Station must be pre-scheduled if not during normal working hours (6:30am - 5:00pm Mon. – Fri., 8:00am – 4:00pm Saturdays.).

ATTACHMENT B
AGREEMENT BETWEEN COUNTY OF MONO
AND BOXX MODULAR
FOR THE PROVISION OF GATEHOUSE CONSTRUCTION SERVICES

TERM:

FROM: JANUARY 1, 2023 TO: DECEMBER 31, 2023

SCHEDULE OF FEES:

The amounts owed under this Agreement to the Contract shall be paid according to the following schedule;

1. 30% - Down Payment due upon execution of this Agreement by all parties
2. 65% - Due upon completion of manufacturing, but prior to delivery
3. 5% - Due upon completion of the Scope of Work as set out in Attachment A
4. Title (Certificate of Origin) shall be transferred to the County immediately upon the Contractor being paid in full all amounts owed by County under this Agreement.

See Attachment B1, incorporated herein by this reference (optional).

EXHIBIT 1

AGREEMENT BETWEEN THE COUNTY OF MONO AND BOXX MODULAR, INC. FOR THE PROVISION OF GATEHOUSE CONSTRUCTION SERVICES

GENERAL CONDITIONS

SECTION 1. GENERAL

1.1 DEFINITIONS AND TERMS.

Where the following terms are used in these General Conditions, the intent and meaning shall be interpreted as identified in the Standard Specifications and as follows:

- A. **ADMITTED SURETY INSURER** (or, **SURETY**): A corporate insurer or inter-insurance exchange to which the State Insurance Commissioner has issued a certificate of authority to transact surety insurance in California, as defined in Section 105 of the Insurance Code.
- B. **AWARD**: The acceptance by the County of the successful bidder's proposal.
- C. **CALENDAR DAY**: Unless otherwise specified, days or calendar days means each and every day shown on the calendar, Saturdays, Sundays, and holidays included.
- D. **CHANGE ORDER**: A written order to the Contractor covering changes in the plans, specifications, or proposal quantities and establishing the basis of payment and contract time adjustment, if any, for the work affected by such changes. The work, covered by a change order, shall be within the scope of the contract.
- E. **CONTRACT** (or, **CONTRACT DOCUMENTS**): The written and executed agreement between the County and the Contractor covering the work to be performed. The written agreement consists of all attachments as well as all documents incorporated by reference and shall include, but is not limited to, the agreement, performance bond, labor and materials payment bond, any required insurance certificates, the project manual, any addenda issued to bidders, and the project plans.
- F. **CONTRACTOR**: The business entity entering into a contract with the County of Mono for the performance of the work.
- G. **CONTRACT ITEM** (or, **PAY ITEM**): A specific unit of work for which a price is provided in the Contract.
- H. **CONTRACT TIME**: The number of calendar days or working days, for completion of the contract, including authorized time extensions. If a calendar date of completion is stated in the proposal, in lieu of a number of calendar or working days, the contract shall be completed by that date.
- I. **COUNTY**: The County of Mono, a political subdivision of the State of California.
- J. **DEPARTMENT**: The Mono County Department of Public Works, except where Department of Transportation publications and offices are cited, whereupon such citations are to remain as written and refer to the State of California, Department of Transportation.
- K. **ENGINEER**: The individual, partnership, firm, or corporation duly authorized by the County to be responsible for engineering supervision of the contract work and acting directly or through an authorized representative.
- L. **EQUIPMENT**: All machinery, together with the necessary supplies for upkeep and maintenance, and also all tools and apparatus necessary for the proper construction and acceptable completion of the work.

- M. **EXTRA WORK:** An item of work not provided for in the awarded contract as previously modified by change order or supplemental agreement, but which is found by the Engineer to be necessary to complete the work within the intended scope of the contract as previously modified.
- N. **INSPECTOR:** An authorized representative of the Engineer assigned to make all necessary inspections and/or tests of the work performed or being performed, or of the materials furnished or being furnished by the Contractor.
- O. **LABORATORY:** The laboratory or laboratories authorized by the Department to test materials and work involved in the contract.
- P. **LIQUIDATED DAMAGES:** the daily amount set forth in these General Conditions to be deducted from the contract price to cover additional costs incurred by a local agency because of the contractor's failure to complete the contract work within the number of calendar days or workdays specified.
- Q. **NOTICE TO PROCEED:** A written notice from the Department to the Contractor to begin the actual contract work on the Project. If applicable, the Notice to Proceed shall state the date on which the contract time begins.
- R. **PROJECT:** The construction, installation, placement, alteration, or repair of any improvement of any kind, which is required directly or indirectly by the contract.
- S. **SPECIFICATIONS:** A part of the contract containing the written directions and requirements for completing the contract work. Standards for specifying materials or testing which are cited in the contract specifications by reference shall have the same force and effect as if physically included in the contract.
- T. **STANDARD PLANS:** State of California Department of Transportation, 2010 edition of the Standard Plans
- U. **STANDARD SPECIFICATIONS:** State of California Department of Transportation, 2010 edition of the Standard Specifications
- V. **SUPERINTENDENT:** The Contractor's executive representative who is present on the work during progress, authorized to receive and fulfill instructions from the Engineer, and who shall supervise and direct the construction.
- W. **SURVEYOR:** The individual, partnership, firm, or corporation duly authorized by the Contractor to be responsible for verifying placement of the work and acting directly or through an authorized representative.
- X. **UNEXCUSABLE DELAY:** a delay that does not entitle the Contractor to an adjustment of the Contract Limit and does not entitle the Contractor to an adjustment of the Contract Time.
- Y. **WORK:** The construction and services required by the Contract, whether completed in whole or partially completed, and includes all labor, materials, equipment, tools, supplies, tax, transportation, and services provided or to be provided by the Contractor to fulfill Contractor's obligations. The Work may constitute the whole or a part of the Project.
- z. **WORKING DAY:** A working day shall be any day other than a legal holiday, Saturday, or Sunday on which the normal working forces of the Contractor may proceed with regular work for at least 6 hours toward completion of the contract. Unless work is suspended for causes beyond the Contractor's control, Saturdays, Sundays, and holidays on which the Contractor's forces engage in regular work, requiring the presence of an inspector, will be considered working days.

1.2 ORDER OF PRECEDENCE OF DOCUMENTS.

In case of conflict between Contract documents, the priority shall be as follows: (1) mutually executed change orders; (2) Attachment A to the Agreement, (3) Attachment B to the Agreement, (4) the Agreement, and (5) the Exhibits to the Agreement.

SECTION 2. PERFORMANCE OF WORK

2.1 USE OF PREMISES, HOURS OF WORK, CONTACT INFORMATION AND PUBLIC NOTIFICATION.

- A. Work occurring within 500 feet of a residential or commercial occupancy shall be limited to the hours between 7:00 am and 8:00 pm Monday through Saturday (Sunday operations shall be limited to hours between 9:00 am and 5:00 pm). Concrete pouring is limited to daylight hours between sunrise and sunset.
- B. Unless otherwise provided, the Contractor accepts full control of any vehicles, equipment, material, or other property delivered to the site in the performance of services and work for the Project. The Contractor is solely responsible for ensuring the security and protection of such vehicles, equipment, materials, property, and Work. The County accepts no responsibility for the security, safety, or liability of said vehicles, equipment, material, property, or work until final acceptance of the Work. The Contractor understands that the project site is a public area and, as such, there may be vandalism or obstructions, protrusions, and undesirable materials on and under the ground surface that may result in damage to the Contractor’s vehicles, equipment, materials, project work, or other property.
- C. Authorized representatives or agents of the Engineer and County, state, or federal government shall have the right to enter the project site at any time during execution of the Work for any purpose that will not unreasonably interfere with the Contractor’s use, including, but not limited to, the conduct of its own business, facility inspection, or inspection to ensure compliance with the terms and conditions of the Project.
- D. 24 Hour Contact Number - The Contractor shall assign a project superintendent and an assistant who have the complete authority to make decisions on behalf of the Contractor. The project superintendent or the assistant shall be at the project site at all times during the construction and shall be available and on call 24 hours a day, 7 days per week for the duration of the project. The Contractor shall provide the Engineer and the Mono County Sheriff’s Department primary and secondary 24-hour mobile phone numbers for the project superintendent and the assistant. These numbers shall not automatically direct calls to a recorder or other message taking service.
- E. Advance Public Notification – At least 7 days and no more than 14 days prior to beginning any work on the project, the Contractor shall deliver written notice to all adjoining residents, businesses, tenants, to the fire department and law enforcement agency having jurisdiction over the project area, and other applicable parties listed below. Notice shall be given for general construction activity in an area as well as specific activities that will, in any way, inconvenience residents/property owners/tenants or affect their operations or access to their property. Such notices shall include the expected date for start of construction, a general description of the construction activity to take place, expected duration, and the name, address, and contact number of the Contractor’s superintendent and of the County Engineer. A follow up notice shall be distributed two days prior to the construction activity. Copies of all notices shall be provided to the Engineer for approval five working days prior to the desired distribution date.

NOTICE SHALL ADDITIONALLY BE PROVIDED TO THE FOLLOWING, OR AS FOLLOWS:

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[Click here to enter text.](#)

[Click here to enter text.](#)

- F. Vehicular access – Vehicular access to and from commercial and residential driveways and parking lots shall be maintained at all times, except when performing items of work that cannot be accomplished without access restriction.

2.2 OTHER PROJECTS.

The Contractor is advised that other projects may be taking place at the site at the same time as this Project. The Contractor will make every effort to coordinate his work with that of other contractors.

2.3 PROTECTION OF PROPERTY.

Attention is directed to Section 5-1.36, “Property and Facility Preservation,” of the Standard Specifications. The Contractor shall take all reasonable precautions to preserve and protect all on-site and surrounding public and private property to prevent damage of all kinds to existing structures, signs, fences, gates, roads, drainage facilities, monitoring wells, equipment, and the environment arising from the execution of this Contract, unless otherwise called for on Project Plans or in these General Conditions. In addition, the Contractor shall be responsible for the preservation and protection of all land monuments and property markers.

In addition to its obligations pursuant to the Agreement to defend, indemnify, and hold the County harmless, the Contractor shall replace, repair, and/or be responsible for any damage or injury to property of any character during the prosecution of the Work, resulting from any act, omission, neglect, or misconduct in the Contractor’s manner or method of executing the Work, or at any time due to defective work or materials, and said responsibility shall not be released until Contractor has completed the work as described in Attachment A to the Agreement. Repairs or replacement required as a result of such damage shall be performed to the County’s satisfaction and at no additional cost to the County.

It is the Contractor’s responsibility to identify and document any property or site damage that exists prior to the start of construction. The responsibility and liability of the Site is described in Attachment A to the Agreement. If undocumented damage is discovered by the County that could have been caused as a result of the Contractor’s presence, it will be the Contractor’s responsibility to repair the damage to the County’s satisfaction without cost to the County. If the Contractor does not repair the damage to the County’s satisfaction, the County has the right, after 48 hours of written notification, to repair the damage and charge the Contractor for all expenses associated with the repair. County shall not perform repair that will violate the Warranty granted under the Agreement.

The Contractor shall be responsible for the safety of all persons at or near the project site as it pertains to the Project. The Contractor shall provide signage, temporary protective fencing, or covering over any open trenching, excavation, or other hazardous situation arising from the execution of the Scope of Work as described in Attachment A. Attachment A describes the security for the protection of the Site.

2.4 ENVIRONMENTAL PROTECTION.

The Contractor shall comply with all federal, state, and local laws and regulations controlling pollution of the environment. All necessary precautions shall be taken to prevent pollution of streams, drainage channels, lakes, ponds, and reservoirs with fuels, oils, bitumens, chemicals, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter. Any fuel or lubricants stored on-site shall be in appropriate and secure containers provided with secondary containment.

2.5 REMOVAL OF ASBESTOS AND HAZARDOUS SUBSTANCES.

Should the Contractor encounter materials which the Contractor reasonably believes to be asbestos or a hazardous substance as defined in Section 25914.1 of the Health and Safety Code, and the asbestos or hazardous substance has not been rendered harmless, the Contractor may continue work in unaffected areas reasonably believed to be

safe, and shall immediately cease work in the affected area and immediately report the condition to the Engineer in writing.

In accordance with Section 25914.1 et seq. of the Health and Safety Code, all such removal of asbestos or hazardous substances, including any exploratory work to identify and determine the extent of such asbestos or hazardous substance, shall be performed by a person properly licensed to perform such work and shall be performed by separate contract if the presence of asbestos or hazardous substances is not disclosed in the bid documents.

2.6 ARCHAEOLOGICAL AND HISTORICAL FINDINGS.

Should the Contractor encounter, during its operations, any building, part of a building, structure, or object which is incongruous with its surroundings, the Contractor shall immediately cease operations in that location and notify the Engineer. The Engineer will immediately investigate the Contractor's finding and will direct the Contractor to either resume its operations or to suspend operations as directed.

Should the Engineer order suspension of the Contractor's operations in order to protect an archaeological or historical finding, or order the Contractor to perform extra work, such shall be covered by an appropriate contract modification (change order, amended or supplemental agreement).

SECTION 3. ACKNOWLEDGEMENTS, DISCLOSURES, CERTIFICATIONS AND AFFIDAVITS

3.1 DEBARMENT AND SUSPENSION CERTIFICATION

Contractor's signature affixed to the Agreement, shall constitute a certification under penalty of perjury under the laws of the State of California, that Contractor has complied with Title 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined to be of ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the County.

3.2 NATIONAL LABOR RELATIONS BOARD CERTIFICATION

Contractor's signature affixed to the Agreement, shall constitute a certification under penalty of perjury under the laws of the State of California that no more than one final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with a court order to comply with an order of the National Labor Relations Board.

3.3 APPLICABILITY TO SUBCONTRACTORS

The certification and disclosure of lobbying activities forms provided in the Project Manual and/or the Agreement shall be included in each subcontract and any lower-tier contracts exceeding \$10,000. All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the Engineer.

3.4 QUARTERLY DISCLOSURES

The Contractor, subcontractors and any lower-tier contractors shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by the Contractor, subcontractor, or lower-tier contractor. An event that materially affects the accuracy of the information reported includes:

- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action; or
- (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered federal action; or
- (3) A change in the officer(s), employees(s), or member(s) contacted to influence or attempt to influence a covered Federal Action.

SECTION 4. SUBCONTRACTORS

4.1 SUBCONTRACTING.

No subcontract releases the Contractor from the contract or relieves the Contractor of its responsibility for a subcontractor's work.

If the Contractor violates Public Contract Code § 4100 et seq., the County of Mono may exercise the remedies provided under Public Contract Code § 4110 and may refer the violation to the Contractors State License Board as provided under Public Contract Code § 4111.

The Contractor shall perform the Scope of Work as described in Attachment A using its own employees and subcontractors at the Site. The Equipment, which is the subject of the Agreement, shall be manufactured by an entity as referenced in Attachment A.

Each subcontract must comply with the Agreement and all contract documents including, but not limited to insurance requirements. Subcontractor shall provide all certificates and other required documentation/proof of insurance to Contractor, and Contractor shall make such documents available to County upon its request.

Each subcontractor must have an active and valid State contractor's license with a classification appropriate for the work to be performed (Bus & Prof Code, § 7000 et seq.).

The Contractor shall submit copies of subcontracts upon request by the Engineer. Before subcontracted work starts, the Contractor shall submit a Subcontracting Request form to the Engineer. The Contractor shall not use a debarred contractor; a current list of debarred contractors is available at the Department of Industrial Relations web site at: <http://www.dir.ca.gov/dlse/debar.html>

Upon request by the Engineer, the Contractor shall immediately remove and not again use a subcontractor who fails to prosecute the Work satisfactorily.

If the work involves Federal funds, each subcontract and any lower-tier subcontract that may in turn be made shall include the "Required Contract Provisions Federal-Aid Construction Contract" located in the Federal Provisions within the Project Manual.

Payment for subcontracted work involved will be withheld from progress payments due or to become due, until correction is made. Failure to comply may result in termination of the contract.

4.2 PERFORMANCE OF SUBCONTRACTORS

The bid shall list the name and address of each subcontractor to whom the bidder proposes to subcontract portions of the work in an amount in excess of one-half of one percent of the total bid or \$10,000, whichever is greater, in accordance with the Subletting and Subcontracting Fair Practices Act, commencing with Section 4100 of the Public Contract Code. The bidder's attention is invited to other provisions of the Act related to the imposition of penalties for a failure to observe its provisions by using unauthorized subcontractors or by making unauthorized substitutions.

4.3 PROMPT PROGRESS PAYMENT TO SUBCONTRACTORS.

A prime contractor or subcontractor shall pay any subcontractor not later than 7 days from receipt of each progress payment in accordance with the provision in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 7 days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the County's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions and other remedies of that section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

4.4 PROMPT PAYMENT OF WITHHELD FUNDS TO SUBCONTRACTORS.

Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the County's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Please refer to the Federal Provisions (for contracts involving Federal funds), attached to the Agreement for further information. Where the Federal Provisions apply, they shall supersede and replace this section 4.4 to the extent inconsistent herewith.

4.5 APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.

This project is not funded under the Appalachian Regional Development Act of 1965, therefore, page FP-13 of the Federal Provisions (if Federal Provisions are included in the contract) does not apply to this contract.

SECTION 5. PROJECT IMPLEMENTATION

5.1 PRE-CONSTRUCTION CONFERENCE.

Prior to Contractor mobilization, a pre-construction conference will be held at a location, date, and time to be determined by the County for the purpose of discussing with the Contractor the scope of work, Project Plans, Technical Specifications, Special Provisions, , existing conditions, coordination with disposal site operations, equipment and material storage locations, materials testing and construction quality assurance, and all essential matters pertaining to the prosecution of and the satisfactory completion of the Project as required. The Contractor's

representative at this conference shall include all major superintendents for the work and may include subcontractors.

5.2 PROSECUTION AND PROGRESS.

The Contractor shall submit a progress schedule for the Engineer's approval within 10 calendar days after the date of the Notice to Award. The Contractor's progress schedule, when approved by the Engineer, may be used to establish major construction operations and to check on the progress of the Work. The Contractor shall provide sufficient materials, equipment, and labor to guarantee the completion of the Project in accordance with and within the time set forth in the Contract Documents.

If, in the sole judgment of the Engineer, the Contractor falls significantly behind the submitted schedule, the Contractor shall, upon the Engineer's request, submit a revised schedule for completion of the Work within the contract time and modify its operations to provide such additional materials, equipment, and labor necessary to meet the revised schedule. Should the prosecution of the Work be discontinued for any reason, the Contractor shall notify the Engineer at least 24 hours in advance of resuming operations.

5.3 ORDER OF WORK.

The project site is located in a climate that can experience freezing temperatures throughout the year. While determination of the means, methods, techniques, sequences, and procedures of construction are the responsibility of the Contractor, such sequencing and procedures must bear climatic conditions in mind. Work shall be scheduled and protected such that inclement weather does not damage the Work or result in a hazardous condition.

SECTION 6. PROJECT ADMINISTRATION

6.1 GENERAL.

Changes and Extra Work: The County may make changes, within the Contractor's scope of work and add extra work. The Contractor and the Engineer shall mutually agree on the changes and extra work, the payment basis, and any time adjustment in a Change Order. A Change Order must be mutually agreeable and signed by both the County and the Contractor. Unless the Change Order work would interfere with the Contractor's ability to continue its original Scope of Work as described in Attachment A, the Contractor shall continue to perform its work under the Agreement. The Contractor shall not be obligated to perform any additional Work, under a Change Order, until both the County and the Contractor have executed a written Change Order.

Control of Work:

Attention is directed to Section 4-1.05, "Changes and Extra Work," and applicable portions of Section 5, "Control of Work," Section 7, "Legal Relations and Responsibility to the Public," and Section 8, "Prosecution and Progress," of the Standard Specifications with respect to administration of this contract and the Project.

6.2 OMITTED ITEMS.

The County may, if in its best interest, omit from the Contract any of Contractor's Scope of Work. Such omission shall not invalidate any other of Contractor's Scope of Work. Should Contractor's Scope of Work be omitted or otherwise ordered to be non-performed, the Contractor shall be paid for all work performed regarding such omitted Scope of Work through to the date of the order to omit.

6.3 CONTRACTOR REPRESENTATION.

The County will not recognize any subcontractor on the work. The Contractor shall at all times when work is in progress be represented in person by either a qualified, competent Superintendent or by another designated, qualified, competent representative who is duly authorized to receive and execute orders of the Engineer. The Superintendent shall be satisfactory to the County and shall not be changed except with the express written consent of the County unless the ceases to be in its employ.

All communications given to the Superintendent or other authorized representative shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. An authorized representative of the Contractor shall be available for emergency telephone communications from the County on a 24-hour, seven days per week basis during the performance of the Work.

6.4 CONTRACTOR PERSONNEL.

The Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ on the work any unfit person or anyone not skilled in the work assigned to him or her. The Contractor shall ensure that all workers have sufficient skill and experience necessary to properly perform the work assigned to them and that workmanship shall be of the best trade practice, regardless of the quality of materials. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform the work satisfactorily. The Contractor shall provide, at all times, sufficient and competent labor to carry on the work properly and ensure completion of each part in accordance with the Project Plans, these General Conditions, the Special Provisions, any QAP, and the approved schedule.

An employee of the Contractor or subcontractor who is deemed by the County to be incompetent, disorderly, or otherwise objectionable shall be promptly removed by the Contractor and not reemployed on the Work.

6.5 METHODS AND EQUIPMENT.

The Contractor shall, at all times, employ sufficient labor and equipment for prosecuting the Work to full completion in the manner and time required by the Contract Documents.

All equipment used on the Work shall be of sufficient size and in such mechanical condition as to meet requirements of the Work and to produce a satisfactory quality of work. Equipment used on any portion of the Work shall be such that no injury to previously-completed work, adjacent property, or existing facilities will result from its use.

When the methods and equipment to be used by the Contractor in accomplishing the Work are not prescribed in the Contract Documents, the Contractor is free to use any methods or equipment that will accomplish the work in conformity with the requirements of the Contract Documents.

6.6 PARTIAL PAYMENTS.

Unless otherwise agreed by the County, no partial payment will be made for any materials on hand which have been furnished but not incorporated into the work. Payment will only be made consistent with the Schedule of Fees in Attachment B.

6.7 FINAL ACCEPTANCE.

Upon due notice from the Contractor of presumptive completion of the entire Project, the Engineer and County will make an inspection. If all construction provided for and contemplated by the Contract is found to be completed in accordance with the Contract Documents, such inspection shall constitute the final inspection. The County shall notify the Contractor in writing of final acceptance as of the date of the final inspection.

If, however, the inspection discloses any work, in whole or in part, as being unsatisfactory, the County will give the Contractor the necessary instructions for correction of same and the Contractor shall immediately comply with and execute such instructions. Upon correction of the work, another inspection will be made which shall constitute the final inspection, provided the work has been satisfactorily completed. In such event, the County will make the final acceptance and notify the Contractor in writing of this acceptance as of the date of final inspection.

The completion of the contract will be accepted and Notice of Completion recorded by the County only when the entire contract is completed satisfactorily to the County.

6.8 CLAIMS FOR ADJUSTMENT AND DISPUTES.

If for any reason the Contractor deems that it is due additional compensation for work or materials not clearly provided for in the Contract Documents or previously authorized as extra work, the Contractor shall notify the County in writing of its intention to claim such additional compensation 24 hours before beginning the work on which the claim is based. If such notification is not given or the County is not afforded a proper opportunity by the Contractor to keep strict account of actual cost as required, then the Contractor hereby agrees to waive any claim for such additional compensation. Such notice by the Contractor and the fact that the Engineer has kept account of the cost of the work shall not in any way be construed as proving or substantiating the validity of the claim. When the work on which the claim for additional compensation is based has been completed, the Contractor shall, within 14 calendar days, submit its written claim to the County for consideration in accordance with local laws or ordinances. Nothing in this subsection shall be construed as a waiver of the Contractor's right to dispute final payment based on differences in measurements or computations.

Claims falling within the provisions of California Public Contract Code section 9204 shall be processed in accordance with that section.

6.9 FORCE MAJEURE.

Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and
- b) Acts of the federal or State government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

6.10 WARRANTY AND GUARANTEE.

The Contractor warrants to the County that all materials furnished under this Contract shall be new unless otherwise specified and that all Work, including without limitation all materials, will be of good quality, free from faults and defects and in conformance with contract requirements. Any work not so conforming to these standards may be considered defective. The obligations of the Contractor in this subsection shall be in addition to, and not in limitation of, any obligations imposed upon it by those guarantees required by the contract or otherwise prescribed by law.

Neither the recordation of a Notice of Completion, nor the final certification or payment, nor any provision of the Contract or partial or entire use or occupancy of the premises by the County shall constitute an acceptance of the

Work not performed in accordance with the Contract or relieve the Contractor of liability with respect to any express warranties or responsibility for faulty materials or workmanship.

The Contractor agrees that all work and materials provided under this contract are guaranteed for a period of one year against defects of any kind or nature and that any defective work or materials resulting from the Contractor's negligence will be repaired or replaced by the Contractor at its own expense immediately upon notification by the County. The Contractor shall furnish a warranty bond in the amount of 10 percent of the contract price as provided for and meeting the requirements specified in the Agreement. The warranty bond shall be furnished and approved prior to final payment and release and shall remain in effect for the duration of the guarantee period to insure the repair or replacement of defective work or materials. The one-year guarantee period shall commence on the day of recordation of the Notice of Completion.

The County will give notice of observed defects with reasonable promptness. The County is authorized to make such repairs and charge the Contractor the actual costs of such necessary labor and material, if, within 14 calendar days after mailing a notice in writing to the Contractor or its agent, the Contractor neglects to make or undertake with due diligence the aforesaid repairs; provided, however, that in the case of an emergency where, in the opinion of the County, delay would cause hazard to health or serious loss or damage, repairs may be made without notice being sent to the Contractor, and the Contractor shall pay the cost thereof. Notwithstanding anything stated to the contrary herein, the County shall not make any repairs that violate the Warranty. The County shall be reasonable in determining if the defect requires longer than 14 days to cure and if so shall grant the Contractor the additional time necessary to cure.

If after installation and acceptance, the Work provided for under this Contract proves to be unsatisfactory to the County, the County shall have the right to use the Work until it can, without damage to the County, be taken out of service for correction or replacement. Such period of use of the defective Work pending correction or replacement shall in no way decrease the guarantee period.

Nothing in this section shall be construed to limit, relieve or release the Contractor's, subcontractor's, and supplier's liability to the County for damages sustained as the result of latent defects in the Work caused by the negligence of their respective agents, employees or subcontractors.

SECTION 7: TERMINATION

7.1 TERMINATION BY CONTRACTOR.

The Contractor shall have the right to terminate the Contract only upon the occurrence of one of the following:

1. Provided that County has not commenced reasonable action to remove any order of a court within the 90 day period, the Work is stopped for 90 consecutive days, through no act or fault of Contractor, any Subcontractor, or any employee or agent of Contractor or any Subcontractor, due to an issuance of an order of a court or other public authority having jurisdiction or due to an act of government, such as a declaration of a national emergency making material unavailable.
2. The County fails to perform any material obligation under the Contract Documents and fails to cure such default within 30 days, or County has not commenced to cure such default within 30 days where such cure will require a reasonable period beyond 30 days and diligently prosecutes the same to completion, after receipt of notice from Contractor stating the nature of such default(s).

Upon occurrence of one of the events listed above, the Contractor may, upon 10 days additional notice to County and Engineer, and provided that the condition giving rise to Contractor's right to terminate is continuing, terminate the Contract.

Upon termination by Contractor, County will pay to Contractor the sum determined by Section 7.4 of these General Conditions. Such payment will be the sole and exclusive remedy to which Contractor is entitled in the event of termination of the Contract by Contractor pursuant to this section; and Contractor will be entitled to no other compensation or damages and expressly waives the same.

7.2 TERMINATION BY COUNTY FOR CAUSE.

The County will have the right to terminate the Contract for cause or the Contractor's right to perform the Contract for cause at any time after the occurrence of any of the following events:

1. Contractor becomes insolvent or files for relief under the bankruptcy laws of the United States.
2. Contractor makes a general assignment for the benefit of its creditors or fails to pay its debts as the same become due.
3. A receiver is appointed to take charge of Contractor's property.
4. The commencement or completion of any Work activity on the critical path is more than thirty (30) days behind the date set forth in the Contract Schedule for such Work activity as a result of an Unexcusable Delay.
5. Contractor abandons the Work.

Upon the occurrence of any of the following events and subject to the clause entitled "Force Majeure", the County will have the right to terminate the Contract for cause or the Contractor's right to perform the Contract for cause if the Contractor fails to promptly commence to cure such default and diligently prosecute such cure within 5 days after notice from the County, or within such longer period of time as is reasonably necessary to complete such cure:

1. Contractor persistently or repeatedly refuses or fails to supply skilled supervisory personnel, an adequate number of properly skilled workers, proper materials, or necessary equipment to prosecute the Work in accordance with the Contract Documents.
2. Contractor fails to make prompt payment of amounts properly due subcontractors after receiving payment from County.
3. Contractor fails to follow applicable legal requirements.
4. Contractor persistently or materially fails to execute the Work in accordance with the Contract Documents.
5. Contractor is in default of any other material obligation under the Contract Documents.
6. Contractor persistently or materially fails to comply with applicable safety requirements.

Upon any of the occurrences referred to above the County may, at its election and by notice to the Contractor, terminate the Contract and take possession of the Project site and all materials, supplies, equipment, tools, and construction equipment and machinery thereon owned by Contractor; accept the assignment of any or all of the subcontracts; and then complete the Work by any method County may deem expedient. If requested by County, Contractor shall remove any part or all of Contractor's materials, supplies, equipment, tools, and construction equipment and machinery from the Project site within 7 days of such request; and if Contractor fails to do so, County may remove or store, and after 90 days sell, any of the same at Contractor's expense.

If the Contract or Contractor's right to perform is terminated by the County as provided in this section, the

Contractor shall not be entitled to receive any further payment until the expiration of 35 days after Final Completion and acceptance of all Work by County.

If the unpaid balance of the Contract Sum exceeds the cost of completing the Work, including all additional costs and expenses made necessary thereby, including costs for County staff time, plus all losses sustained, including any liquidated damages provided under the Contract Documents, such excess shall be paid to Contractor. If such costs, expenses, losses, and liquidated damages exceed the unpaid balance of the Contract Sum, Contractor shall pay such excess to County.

No termination or action taken by the County after termination shall prejudice any other rights or remedies of the County provided by law or by the Contract Documents upon such termination; and the County may proceed against the Contractor to recover all losses suffered by County.

Termination of the Contract does not relieve the surety of its obligation for any just claims arising out of the work performed.

7.3 TERMINATION BY COUNTY FOR CONVENIENCE.

The County may, at its option, terminate this Contract, in whole or from time to time in part, at any time by giving notice to Contractor. Upon such termination, the Contractor agrees to waive any claims for damages, including loss of anticipated profits, on account thereof; and, as the sole right and remedy of the Contractor, the County shall pay the Contractor in accordance with this Section, below.

Upon receipt of notice of termination under this Section 7.3, Contractor shall, unless the notice directs otherwise, do the following:

1. Immediately discontinue the Work to the extent specified in the notice.
2. Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary for completion of such portion of the Work as is not discontinued.
3. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent they relate to the performance of the discontinued portion of the Work.
4. Thereafter, do only such Work as may be necessary to preserve and protect Work already in progress and to protect materials, plants, and equipment on the Project site or in transit thereto.

Upon such termination, the obligations of the Contract shall be as set forth in section 7.4 . Termination of the Contract does not relieve the surety of its obligation for any just claims arising out of the work performed.

7.4 PAYMENT ADJUSTMENT FOR TERMINATION.

Section 8-1.14E, "Payment Adjustment for Termination," of the Standard Specifications is replaced in its entirety by the following language:

"Upon such termination, the County shall pay to Contractor the sum of the following:

1. The amount of the Contract Sum allocable to the portion of the Work properly performed by Contractor as of the date of termination, less sums previously paid to Contractor.
2. Plus previously unpaid costs of any items delivered to the Project Site that were fabricated for

subsequent incorporation in the Work.

3. Plus any proven losses with respect to materials and equipment directly resulting from such termination.
4. Plus reasonable demobilization costs.
5. Plus reasonable costs of preparing a statement of the aforesaid costs, expenses, and losses in connection with such termination.

The above payment shall be the sole and exclusive remedy to which the Contractor is entitled in the event of termination of the Contract by the County pursuant to Sections 7.2 or 7.3; and the Contractor will be entitled to no other compensation or damages and expressly waives same.”

SECTION 8. MATERIALS

8.1 MANUFACTURER’S SPECIFICATIONS AND RECOMMENDATIONS.

Wherever, in the Contract Documents, a particular brand or make of item is specified, the Contractor shall comply strictly with the specifications and recommendations of that manufacturer as to the installation and/or application of that particular item. This requirement shall be met with respect to the specifications and recommendations of the manufacturer of an “or equal” item approved by the Engineer and installed or applied by Contractor.

8.2 REFERENCE TO SPECIFICATIONS AND TRADE NAMES.

Where American Society for Testing Materials (ASTM) or other specifications or standards are mentioned, it shall be understood that the materials or methods mentioned therewith shall conform to all requirements of the same that are in effect on the date of bid submission.

Where the trade name of a product or the name of a product or the name of a manufacturer appears, it shall be understood to specify the product so identified or its “Approved Equal.” The words “Or Equal” or “Approved Equal” shall mean equal in the opinion of, and approval by, the Engineer. Any substitutions for products or manufacturers mentioned in the Contract Documents shall be submitted by the Contractor to the County for approval within 14 calendar days following the Award of Contract or as otherwise permitted in writing by the Engineer.

8.3 STORAGE OF MATERIALS.

Materials shall be stored as to assure the preservation of their quality and fitness for the Work. Stored materials, even if approved before storage, may again be inspected prior to their use in the Work. Stored materials shall be located so as to facilitate their prompt inspection. The Contractor shall coordinate the storage of all materials with the County and the location of the Contractor’s plant and parked equipment or vehicles shall be as directed by the County. Private property shall not be used for storage purposes without written permission of the owner or lessee of the property. The Contractor shall make all arrangements and bear all expenses for the storage of materials on private property. Upon request, the Contractor shall furnish the County a copy of the owner’s or lessee’s permission. All storage sites on private or County property shall be restored to their original condition by the Contractor at its entire expense, except as otherwise agreed to in writing by the County.

SECTION 9. CONSTRUCTION DETAILS

9.1 SANITARY, HEALTH, AND SAFETY PROVISIONS.

The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of its employees as may be necessary to comply with the requirements of the State and local Health Department, or of other bodies or tribunals having jurisdiction.

Attention is directed to federal, State, and local laws, rules and regulations concerning construction safety and health standards. The Contractor shall not require any worker to work in surroundings or under conditions that are unsanitary, hazardous, or dangerous to that worker's health or safety.

The Engineer and County shall have **no** responsibility for job site safety. The Contractor and his subcontractors must execute their daily work in accordance with the latest edition of the Occupational Safety and Health Administration (OSHA).

9.2 CONSTRUCTION SITE NUISANCE.

The Contractor shall maintain preventative controls of blowing dust, noise, and other nuisances from construction work. No dogs or other animals are allowed within the project limits.

9.3 PUBLIC CONVENIENCE AND SAFETY.

The Contractor shall provide temporary protective fencing, barriers, and/or covering over any open trenching or excavation arising from the execution of this Contract, to keep out unauthorized persons, at no additional cost to the County. The cost for providing signage, barriers, or any other items associated with public convenience and safety shall be the sole responsibility of the Contractor and no additional payment will be allowed therefor.

Contractor shall comply with OSHA regulations applicable to Contractor regarding necessary safety equipment and procedures. Contractor shall comply with safety instructions issued by County. Contractor's personnel shall wear hard hats and safety vests at all times while working at the project site. Pursuant to the authority contained in Section 591 of the Vehicle Code, County has determined that such areas are within the limits of the project and are open to public traffic. Contractor shall comply with all applicable requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Contractor shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles. All subcontracts entered into by Contractor shall contain the above provisions.

9.5 HIGHWAY CONSTRUCTION EQUIPMENT.

Attention is directed to Section 591 of the Vehicle Code and Sections 7-1.01D, "Vehicle Code," and 5-1.37B, "Load Limits," of the Standard Specifications. The Contractor shall take all necessary precautions for safe operation of its equipment and the protection of the public from injury and damage from such equipment.

9.6 PERMITS.

The Contractor shall give all notices as required and comply with all laws, ordinances, rules and regulations bearing on the conduct of the Work as drawn and specified. If the Contractor observes that the Project Plans and Technical Specifications are at variance therewith, the Contractor shall notify the County promptly in writing, of any necessary changes in the work. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the County, the Contractor shall bear all costs arising therefrom. Copies of permits shall be furnished to the County. Notwithstanding, the party responsible for permits is stipulated in Attachment A to the Agreement.

9.7 CONSTRUCTION LAYOUT AND STAKES.

The Contractor may be responsible for maintaining all survey controls and other layout that may be required for construction of the work.

9.8 TESTING AND INSPECTIONS.

Aside from materials testing and certifications required from the Contractor in the Quality Assurance Program (QAP), Technical Specifications, Standard Specifications, Special Provisions (if applicable) and/or these General Conditions, the County will provide testing services for installed work. Inspections shall be performed either: (1) as directed by the Engineer; or (2) pursuant to a written Inspection plan provided by County.

9.9 CONTRACTOR QUALITY CONTROL.

The Contractor shall be responsible for the quality of all materials entering into the work and of the work performed. The County and Engineer shall establish, maintain, and modify if needed, a quality control system that will provide assurance that materials and completed work conform to contract requirements. Where applicable, a copy of the QAP, which establishes testing frequency for materials incorporated into the work and criteria used to monitor the Contractor's conformance with Project Plans and Technical Specifications, will be included in the Project Manual.

9.10 INSPECTION OF THE WORK.

All materials and each part or detail of the work shall be subject to inspection by the Engineer. The Engineer shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

If the Engineer requests it, the Contractor, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the specifications. Should the work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as extra work; but should the work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be at the Contractor's expense.

Any work done or materials used without supervision or inspection by an authorized representative of the County may be ordered removed and replaced at the Contractor's expense unless the County's representative failed to inspect after having been given reasonable notice in writing that the work was to be performed.

9.11 RETEST OF WORK.

When, as provided for in the Contract Documents, the County or Contractor performs sampling and test of the work and the tests show a failure to meet the requirements of the Special Provisions, the QAP, Technical Specifications, or Standard Specifications, the expense of re-testing, after re-working or substitution by the Contractor, will be at the expense of the Contractor, and such costs will be deducted from any amounts due to the Contractor.

9.12 MAINTENANCE DURING CONSTRUCTION.

The Contractor shall maintain the Work during construction and until the Work is accepted. This maintenance shall constitute continuous and effective Work prosecuted day by day, with adequate equipment and forces so that the work is maintained in satisfactory condition at all times. All costs of maintenance work before the project is accepted shall be included in the unit prices bid on the various Contract Items, and the Contractor will not be paid an additional amount for such work.

Should the Contractor at any time fail to maintain the work as provided herein, the Engineer shall immediately notify the Contractor of such noncompliance. Such notification shall specify a reasonable time within which the Contractor shall be required to remedy such unsatisfactory maintenance condition. The time specified will give due consideration to the exigency that exists. Should the Contractor fail to respond to the Engineer's notification, the Engineer may suspend any work necessary for the County to correct such unsatisfactory maintenance condition, depending on the exigency that exists. Any maintenance cost incurred by the County shall be deducted from monies due or to become due the Contractor.

SECTION 10. OPERATIONS AND SAFETY

10.1 TEMPORARY CONTRACTOR FACILITIES.

At a minimum, the Contractor shall provide chemical toilets for use by contractor and subcontractor employees. Chemical toilets shall be regularly serviced to maintain a clean and odorless facility.

The Contractor's storage area shall be determined at the pre-construction conference. The Contractor shall secure at his own expense any area required for storage of equipment or materials, or for other supplies.

The County will not be responsible for providing telephone, electrical, water, sewer, or any other temporary utility for use by the Contractor.

The Contractor shall remove all equipment, materials, and rubbish from the work areas which it occupies and shall leave the areas in a clean, safe and presentable condition.

10.2 BORROW, DISPOSAL AND MATERIAL SITES.

The operation of any borrow or disposal sites used by the Contractor to produce or dispose of materials for this project shall comply with the requirements of the contract documents. All provisions for water pollution, air pollution, and sound control that apply within the limits of the contract shall apply to all borrow or disposal sites utilized by the Contractor.

Full compensation for complying with the requirements for borrow, disposal and material sites in this section shall be considered as included in the contract prices paid for the items of work which require the use of the sites and no additional compensation will be allowed therefor.

10.3 WATER SUPPLY.

The Contractor is responsible for making its own arrangements to obtain an adequate supply of water required for the proper construction of this project in accordance with the contract documents. The Contractor shall be responsible for all costs associated with obtaining construction water. If the Contractor uses non-potable water on the project, the sources and discharge of non-potable water shall meet the California Department of Health Services water reclamation criteria and the requirements of the Lahontan Regional Water Quality Control Board.

If used, non-potable water shall not be conveyed in tanks or drain pipes which will be used to convey potable water. There shall be no connection between non-potable water supplies and potable water supplies. Non-potable water supply, tanks, pipes, and other conveyances of non-potable water shall be labeled, "NON-POTABLE WATER—DO NOT DRINK."

Full compensation for developing a water supply, loading, and transporting water, labeling as specified, and dust control and moisture-conditioning on the project site shall be considered included in the prices paid for the various Contract Items of work involving the use of water and no additional compensation will be allowed therefor.

The Contractor shall, whenever possible and not in conflict with the above requirements, minimize the use of water during construction of the project. Watering equipment shall be kept in good working order; water leaks shall be repaired promptly; and washing of equipment, except when necessary for safety or for the protection of equipment, shall be discouraged.

10.4 EXISTING FACILITIES.

The Contractor shall be responsible for protecting all existing structures and facilities from damage as a result of the Contractor's activities. Any damage resulting from the Contractor's operations shall be repaired immediately, at the Contractor's expense.

SECTION 11. PROGRESS MEETINGS

11.1 WEEKLY PROGRESS MEETINGS.

The Engineer will conduct Progress Meetings at regularly scheduled times convenient for all parties involved. Progress Meetings are in addition to specific meetings held for other purposes, such as coordination meetings. Discussions will address administrative and technical issues of concern, determining resolutions, and development of deadlines for resolution within allowable time frames.

11.2 ATTENDEES.

As may be required by the Engineer, in addition to representatives of Mono County and the Contractor, each subcontractor, supplier or other entity concerned with current progress or involved in planning, coordination or performance of future activities shall be represented at these meetings by individuals directly involved with the Contract and authorized to conclude matters relating to progress.

SECTION 14. PROJECT CLOSEOUT

15.1 "As-Built" Drawings.

The Contractor shall maintain a set of accurate "as-built" drawings during the course of the project. Any project work completed that varies from the "as-built" drawings as issued shall be legibly noted on the "as-built" drawings in red ink. Both text and line work shall be used to reflect the changes. The "as-built" drawings shall be clearly labeled as "as-built" drawings and each sheet signed and dated by the Contractor, certifying that the information provided is accurate. At the completion of the project and prior to final payment, the "as-built" drawings shall be delivered to the County and, upon receipt, shall be maintained as the property of the County.

EXHIBIT 2

AGREEMENT BETWEEN THE COUNTY OF MONO AND BOXX MODULAR, INC. FOR THE PROVISION OF GATEHOUSE CONSTRUCTION SERVICES

PREVAILING WAGES AS OF: July 11, 2023

A. DETERMINATION

The services and work to be provided by Contractor under this Agreement constitute a public work within the meaning of California Labor Code Sections 1720 and 1720.3. Accordingly, and as required by Section 1771 of the California Labor Code, Contractor and any subcontractor under him, shall pay not less than the general prevailing rate of per diem wages, and not less than the general prevailing rate of per diem wages for holiday and overtime work, to all workers employed in the execution of those services and work requested by the County as described in Attachment A of this Agreement that constitute a public work. California Labor Code Section 1771 is incorporated herein by this reference, and a copy of that Section is included at the end of this Exhibit.

B. PREVAILING WAGE RATE

The general prevailing rate of per diem wages applicable to each class of worker employed in the execution of those services and work that constitute a public work under this Agreement has been determined by the Director of the California Department of Industrial Relations (hereinafter referred to as "Director"). Copies of the Director's determination are on file at the Mono County Department of Public Works office, 74 North School Street, Bridgeport, California, and are available to any interested party upon request.

C. APPRENTICES

Pursuant to Section 1777.5 of the California Labor Code, properly registered apprentices performing services and work that constitute a public work, if any, shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he or she is employed, and shall be employed only at the work of the craft or trade to which he or she is registered. California Labor Code Section 1777.5 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

D. PENALTY FOR NON-PAYMENT OF PREVAILING WAGES

Pursuant to Section 1775 of the California Labor Code, Contractor, and any subcontractor under him, shall, as a penalty to the County, forfeit not more than fifty dollars (\$50.00) for each calendar day, or portion thereof, for each worker paid less than the general rate of per diem wages for the performance of services and work that constitute a public work, as determined by the Director, for the work or craft for which the worker is employed in the performance of services and work provided under this Agreement that constitute a public work, except as provided by subdivision (b) of Section 1775 of the California Labor Code. California Labor Code Section 1775 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

E. PAYROLL RECORDS

Pursuant to Section 1776 of the California Labor Code, Contractor, and any subcontractor under him, shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the performance of the services and work requested by the County, as described in the Scope of Work (Attachment A) of this Agreement.

F. INSPECTION OF PAYROLL RECORDS

Contractor, and any subcontractor under him, shall comply with each of the additional requirements set forth in

California Labor Code Section 1776, regarding: (1) the form of records; (2) the provision of records upon request to the County, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the California Department of Industrial Relations; and, (3) the inspection of records by the public. California Labor Code Section 1776 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

G. POST OF PREVAILING WAGES AT JOB SITE

Pursuant to California Labor Code Section 1773.2, Contractor shall post at each job site in connection with this Agreement a copy of the Director's determination of the general prevailing rate of per diem wages for each classification of worker required in the execution of those services and work requested by the County, as described in the Scope of Work (Attachment A) of this Agreement that constitute a public work.

H. HOURS

Pursuant to Section 1810 of the California Labor Code, the time of service of any worker employed by Contractor, or by any subcontractor under him, in the performance of services and work requested by the County, as described in the Scope of Work (Attachment A) of this Agreement that constitute a public work, is limited and restricted to eight hours during any one calendar day, and 40 hours during any one calendar week, except as otherwise provided by the California Labor Code.

I. OVERTIME

Pursuant to California Labor Code Section 1815, the performance of services and work, as described in the Scope of Work (Attachment A) of this Agreement that constitute a public work by employees of Contractor, or employees of any subcontractor under him, in excess of eight hours per calendar day, and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight hours per calendar day at not less than one and one-half (1½) times the basic rate of pay. California Labor Code Section 1815 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

J. RECORDS OF HOURS

Contractor, and any subcontractors under him, shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him or her in connection with the performance of the services and work requested by the County that constitute a public work, as described in the Scope of Work (Attachment A) of this Agreement. The record shall be kept open at all reasonable hours to the inspection of the County and to the Division of Labor Standards Enforcement as required by Labor Code Section 1812.

K. PENALTY FOR VIOLATION OF WORK HOURS

Pursuant to California Labor Code Section 1813, Contractor, and any subcontractors under him, shall, as a penalty to the County, forfeit twenty-five dollars (\$25.00) for each worker employed by the respective contractor or subcontractor in the execution of the services and work requested by the County that constitute a public work, as described in the Scope of Work (Attachment A) of this Agreement, for each calendar day during which the worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of the California Labor Code. California Labor Code Section 1813 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

L. REGISTRATION WITH DIR AND COMPLIANCE MONITORING

Under Labor Code section 1725.5, no contractor or subcontractor may be listed in a bid proposal (with limited exceptions stated in Labor Code section 1771.1) or awarded a contract for a public works project unless registered with the Department of Industrial Relations. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

CALIFORNIA LABOR CODE:
Sections 1771, 1775, 1776, 1777.5, 1813, and 1815

§ 1771. Payment of general prevailing rate

Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

§ 1775. Penalties for violations

- (a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

- (2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:
 - (i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.
 - (ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

- (B) (i) The penalty may not be less than ten dollars (\$10) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

- (ii) The penalty may not be less than twenty dollars (\$20) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

- (iii) The penalty may not be less than thirty dollars (\$30) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

- (C) When the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

- (D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

- (E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid

to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

- (b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:
 - (1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - (2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.
 - (3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.
 - (4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.
- (c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

§ 1776. Payroll records; retention; noncompliance; penalties; rules and regulations

(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- (1) The information contained in the payroll record is true and correct.
- (2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and furnished directly to the Labor Commissioner in accordance with subdivision (a) of Section 1771.4, and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

- (1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
- (2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.
- (3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the

entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f)

(1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

§ 1777.5. Employment of apprentices; wages; standards; number; apprenticeable craft or trade; exemptions; contributions

- (a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.
- (b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.
- (c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:
- (1) The apprenticeship standards and apprentice agreements under which he or she is training.
 - (2) The rules and regulations of the California Apprenticeship Council.
- (d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).
- (e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.
- (f) The apprenticeship program that can supply apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.
- (g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship

program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

- (h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Chief of the Division of Apprenticeship Standards, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.
- (i) A contractor covered by this section that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).
- (j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Chief of the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.
- (k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:
 - (1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.
 - (2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.
 - (3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.
 - (4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.
- (l) When an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.
- (m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

- (2) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Division of Apprenticeship Standards for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:
- (A) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.
 - (B) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and geographic area for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices registered in each program.
 - (C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray the future expenses of the Division of Apprenticeship Standards.
- (3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the Apprenticeship Training Contribution Fund is hereby continuously appropriated for the purpose of carrying out this subdivision and to pay the expenses of the Division of Apprenticeship Standards.
- (n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.
- (o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).
- (p) All decisions of an apprenticeship program under this section are subject to Section 3081.

§ 1813. Forfeiture for violations; contract stipulation; report of violations

The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

§ 1815. Overtime

Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1-1/2 times the basic rate of pay.

EXHIBIT 3

AGREEMENT BETWEEN COUNTY OF MONO AND BOXX MODULAR, INC. FOR THE PROVISION OF GATEHOUSE CONSTRUCTION SERVICES

BOND REQUIREMENTS

Contractor shall furnish and maintain during the entire term of this Agreement or, if work or services do not begin as of the effective date of this Agreement, commencing at such other time as may be authorized in writing by the Public Works Director or his designee after consultation with the County Risk Manager, the following bonds: 1) a labor and materials payment bond in an amount equal to one hundred percent (100%) of the contract price; 2) a faithful performance bond in an amount equal to one hundred percent (100%) of the contract price; and, 3) upon project completion and acceptance by the County, a one-year warranty bond in an amount equal to ten percent (10%) of the contract price. The bonds shall comply with the requirements of California Civil Code Section 9554 and must be issued by an "Admitted Surety Insurer." For purposes of this Agreement, an Admitted Surety Insurer means a corporate insurer or inter-insurance exchange to which the California State Insurance Commissioner has issued a certificate of authority to transact surety insurance in California, as defined in Section 105 of the California Insurance Code. Bonds shall be in a form acceptable to the Mono County Counsel. The Attorney-in-Fact (resident agent) who executes the bonds on behalf of the surety company must attach a copy of his Power of Attorney as evidence of his authority. A notary shall acknowledge this Power of Attorney as of the date of the execution of the surety bond that it covers. If any surety becomes unacceptable to the County or fails to furnish reports as to its financial condition as requested by the County, Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the County and of persons supplying labor or materials in the prosecution of the work contemplated by this Agreement. Payment and Performance Bonds are released by the County 35 days from the date of filing of the Notice of Completion. Sample bond forms are included on the following pages.

SAMPLE PERFORMANCE BOND

WHEREAS, the County of Mono, acting by and through the Department of Public Works, has awarded to Contractor [Click here to enter text.](#), hereafter designated as the "Contractor", a contract for the work described as follows:

[Click here to enter text.](#)

AND WHEREAS, the Contractor is required to furnish a bond in connection with said contract, guaranteeing the faithful performance thereof:

NOW, THEREFORE, we the undersigned Contractor and Surety are held firmly bound to the County of Mono in the sum of \$[Click here to enter text.](#) dollars ([Click here to enter text.](#)), to be paid to said County or its certain attorney, its successors and assigns: for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bound Contractor, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the foregoing contract and any alteration thereof made as therein provided, on his or their part to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning, and shall indemnify and save harmless the County of Mono, its officers and agents, as therein stipulated, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and virtue.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by County in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS WHEREOF, We have hereunto set our hands and seals on this _____ day of _____, 20__.

Correspondence or claims relating to this bond should be sent to the surety at the following address:

Contractor

Name of Surety (SEAL)

By : Attorney-in-Fact

NOTE: Signatures of those executing for the surety must be properly acknowledged.

APPROVED AS TO FORM:

Mono County Counsel

SAMPLE PAYMENT BOND

WHEREAS, The County of Mono, acting by and through the Department of Public Works, hereafter referred to as "Obligee", has awarded to Contractor [Click here to enter text.](#), hereafter designated as the "Principal", a contract for the work described as follows:

[Click here to enter text.](#)

AND WHEREAS, said Principal is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics, materialmen and other persons as provided by law.

NOW, THEREFORE, we the undersigned Principal and Surety are bound unto the Obligee in the sum of [Click here to enter text.](#)dollars (\$[Click here to enter text.](#)), for which payment, we bind ourselves, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH,

That if said Principal or its subcontractors shall fail to pay any of the persons named in Civil Code Section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by such claimant, or any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal and his subcontractors under Section 13020 of the Unemployment Insurance Code, with respect to such work and labor, that the surety herein will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond, the surety will pay a reasonable attorney's fee to be fixed by the court.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 9100 as to give a right of action to such persons or their assigns in any suit brought upon this bond.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

Dated: _____, 20 ____

Correspondence or claims relating to this bond should be sent to the surety at the following address:

Principal

Surety (SEAL)

By : Attorney-in-Fact

NOTE: Signatures of those executing for the surety must be properly acknowledged.

APPROVED AS TO FORM:

Mono County Counsel

**COUNTY OF MONO
DEPARTMENT OF PUBLIC WORKS
WARRANTY BOND**

KNOW ALL BY THESE PRESENT that we [Click here to enter text.](#), the Contractor in the contract hereto annexed (the “Contract”), as principal, and, [Click here to enter text.](#), the Surety, are held and firmly bound unto the County of Mono (“Owner”) in the sum of [Click here to enter text.](#) lawful money of the United States, for which payment, well and truly be made, we bind ourselves jointly and severally, firmly by these present.

Section 1. During the Term of the Bond, the Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to Owner for the Contractor’s warranty obligation: that if the Contractor, its successors and assigns, or its subcontractor, fails to maintain and remedy in good workmanlike manner the work of [Click here to enter text.](#) such that it is free from defects in the materials and workmanship for a period of one year commencing on [Click here to enter text.](#) and shall indemnify and hold harmless Owner, its officers and agents, as stipulated in the contract, said Surety will pay for the same in an amount not to exceed the sum hereinabove set forth, and also in case suit is brought upon this bond, a reasonable attorney’s fee to be fixed by the court.

Section 2. If the Contractor satisfies its warranty obligations pursuant to the Contract, the Surety and the Contractor shall have no obligation under this Bond. It is understood and agreed that in no event shall the Surety’s obligations under this Bond extend to warranties provided by the Contractor or subcontractor’s suppliers and manufacturers.

Section 3. If there is no Owner Default under the Construction Contract, the Surety’s obligation under this Bond shall arise after:

- a. the Owner first provides notice to the Contractor and the Surety during the Term of the Bond of the Owner’s intent to declare a Contractor Default;
- b. the Contractor fails to remedy the Contractor Default within a reasonable amount of time of such notice; and
- c. the Owner declares a Contractor Default and notifies the Surety.

Section 4. Failure on the part of the Owner to comply with the notice requirement in Section 3 shall not constitute a failure to comply with a condition precedent to the Surety’s obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

Section 5. When the Owner has satisfied the conditions of Section 3, the Surety shall promptly, under reservation of rights, and at the Surety’s expense, remedy the Contractor’s Default. The Surety may, with the consent of the Owner, arrange for the Contractor to remedy the Contractor’s Default.

Section 6. If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner.

Section 7. The responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. The Surety is obligated, without modification or qualification, for the responsibilities of the Contractor for correction of the defective work as set forth in the Construction Contract, and additional legal and design professional costs resulting from the Contractor’s Default or resulting from the actions or failure to act of the Surety under Section 5.

Section 8. The Owner may request an extension of the Term of this Bond. The Surety, at its sole option, may extend the Term of this Bond by continuation certificate or rider setting forth the new expiration date.

- a. If the surety extends the Term of this Bond, the Bond shall be considered one continuous bond.
- b. If the Surety decides not to extend the Term of this Bond, then the Surety shall notify the Owner in writing third (30) days prior to the end of the current term of this Bond at the address indicated in this Bond.
- c. Neither the Surety’s failure to extend the Term of this Bond nor the Contractor’s failure to provide a replacement bond or other acceptable security shall be considered a breach or default by the Surety or Contractor on this Bond, nor serve as a basis for a claim or demand on this Bond.

Section 9. The Surety’s total liability under this Bond is limited to the Amount of this Bond indicated on page 1 of this Bond, regardless of whether the Term of this Bond is extended, the length of time this Bond remains in force, and the number of premiums that shall be payable or paid.

Section 10. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

Section 11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work of the Contractor required by the Contract is located and shall be instituted within two years after a declaration of Contractor Default. If the provisions of this Section are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

Section 12. Notice to the Surety, the Owner, or the Contractor shall be in writing and mailed or delivered to the address shown beneath the signatures on this Bond.

Section 13. Provisions in this Bond that conflict with applicable statutory or other legal requirements shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein.

Section 14. Definitions:

- a. Contract. The Agreement between the Owner and Contractor identified in the preamble to this Bond and in the signature page, including all Contract Documents and changes made to the agreement and the Contract Documents.
- b. Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with the warranties required under the Contract.
- c. Owner Default. Failure of the Owner, which has not been remedied or waived, to perform or otherwise comply with the other material terms of the Contract.
- d. Contract Documents. All the documents that comprise the Contract.
- e. Surety. The company or companies lawfully authorized to issue surety bonds in the jurisdiction where the project is located.

SIGNED, SEALED, AND DATED: _____, 20__

CONTRACTOR
 Company (seal)
 Signature: _____
 Name and Title: _____
 Address: _____

SURETY
 Company (seal)
 Signature: _____
 Name and Title: _____
 Address: _____

OWNER
 Mono County (seal)
 Signature: _____
 Name and Title: _____
 Address: _____

APPROVED AS TO FORM

 Mono County Counsel

EXHIBIT 4

AGREEMENT BETWEEN THE COUNTY OF MONO AND BOXX MODULAR, INC. FOR THE PROVISION OF GATEHOUSE CONSTRUCTION SERVICES

INVOICING, PAYMENT AND RETENTION

3.E. (1). Invoicing and payment. Contractor shall submit to the County, not more than once per month, a payment request in the form of an itemized statement of all services and work described in the Scope of Work (Attachment A) and Contract Documents, which were done at the County's request. The statement to be submitted will cover the period from the first day of the preceding month through and including the last day of the preceding month. Alternatively, Contractor may submit a single request for payment at the conclusion of the work. All statements submitted in request for payment should identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Invoices shall be informative and concise regarding work performed during that billing period. If this box is checked, then invoicing shall be made in the format and according to the schedule and payment terms set forth in the Application and Certificate for Payment set forth on the following two pages.

The progress of work shall initially be determined by Contractor, but must then be approved in writing by the County. Additionally, the making of one or more progress payments shall not be construed as approval of the work performed by the Contractor. Should Contractor submit an improper payment request, the County shall, as soon as practicable, return the request to Contractor accompanied by a document setting forth the reasons why the payment request is not proper. Should the County determine the services or work have not been completed or performed as called for in the Scope of Work (Attachment A) and/or the Contract Documents and/or should Contractor submit an improper payment request, then County shall withhold payment of any disputed amount, plus those amounts authorized by Public Contract Code section 7107, until the services and work are satisfactorily completed or performed and/or the payment request is corrected and resubmitted.

Final payment (excluding retention) for work completed by the Completion Date specified in the Notice of Completion, shall be made within 35 days from the date that County records the Notice of Completion.

3.E.(2). Retention. In accordance with Sections 20104.50 and 9203 of the Public Contract Code, County shall retain 5% of each progress payment until the project is completed unless, at any time after 50 percent of the work has been completed, the Board of Supervisors finds that satisfactory progress is being made, in which case County may make any of the remaining progress payments in full for actual work completed. In accordance with Section 22300 of the Public Contract Code, Contractor may substitute securities for any moneys withheld by the County to ensure performance under this Agreement or request the County to make payments of the retention earnings directly to an escrow agent at Contractor's expense.

Retention for work completed by the Completion Date will be released within 60 days of the date the County records the Notice of Completion.

modular project PROPOSAL

July 11, 2023

BOXX Project: Q-54177
RFP: [Number]



Mono County Mono County-Gatehouse Pumice Valley

Lee Vining, CA

BOXX Modular, Inc. (Corporate Office)
3475 High River Road | Fort Worth, TX | 76155

(877) 966-7839 | BOXXModular.com | ussales@boxxmodular.com



July 11, 2023

Justin Nalder
Mono County Public Works
74 North School Street
PO Box 457
Bridgeport, CA 93517, California 93517

RE: Pumice Valley Landfill Scale House Modular Building
Lee Vining, CA 93541

Dear Justin,

We are pleased to have the opportunity to submit this revised proposal which has been carefully tailored to address your individual space requirements and addresses current pricing.

BOXX Modular has been committed to providing quality products, services, and customer satisfaction to both the public and private sectors since 2010. Our expertise in development and execution of wide-ranging space solutions affords us the distinct satisfaction of fulfilling each of our client's modular construction needs.

Proposal Contents (attached):

- Price Detail
- Floor Plan
- Specifications
- Delineation of Responsibilities
- Estimated Project Schedule
- Clarifications
- References

It is our goal to meet your specific needs, so please be certain to thoroughly review each attachment included in this proposal to ensure you completely understand the pricing, product, and service we are proposing.

Please do not hesitate to contact me for answers to any questions or concerns you may have regarding our proposed solution. It would be our pleasure to partner with you on this important project. Thank you for your consideration.

Sincerely,



Jack DiBenedetto
Major Project Sales Representative

Q-54177
October 19, 2022

modular project
Sale Price Detail

This proposal is valid for 30 calendar days

PRICING SUMMARY

PURCHASE PROGRAM

BUILDING BASIC	✓	\$113,256.00
BUILDING TENANT IMPROVEMENTS	✓	\$58,202.00
SALES/USE TAX		BY Mono County
TRANSPORT TO SITE	✓	\$6,747.00
INSTALLATION	✓	\$54,644.00
SITE WORK		BY Mono County
SUBTOTAL		<hr/> \$232,849.00
PERFORMANCE & PAYMENT BONDS		\$4,657.00
TOTAL		<hr/> \$237,506.00

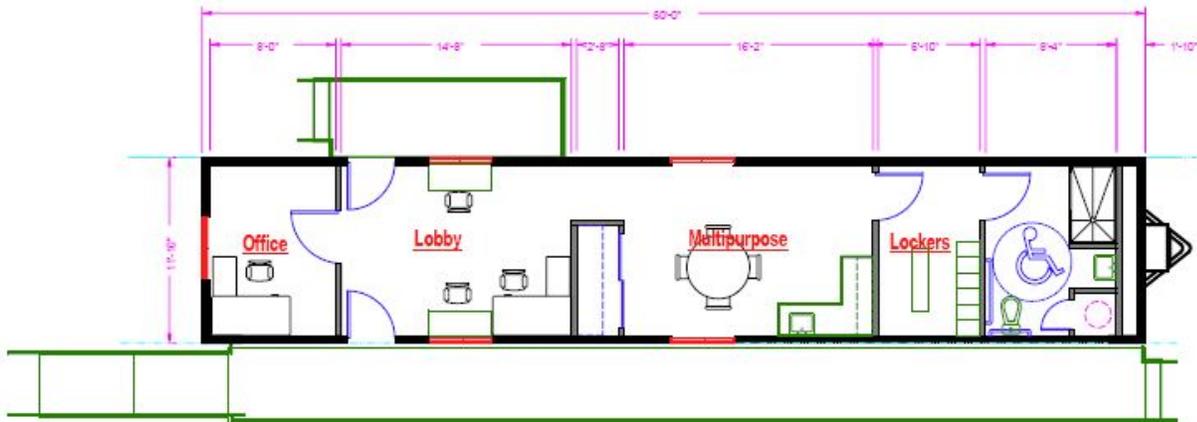
OPTIONS

Initials = Selected

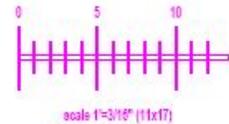
Option Description

Amount (usd
(NONE))

PROJECT DESCRIPTION DETAIL



Schematic FloorPlan



Pricing excludes all applicable taxes. Buyer is responsible for all applicable taxes. Proposal Price does not include sales, use, or personal property taxes, except as may be additionally described. Unless otherwise specified, Proposal is valid for 10 calendar days from the "Proposal Date". BOXX Modular's willingness to enter into a contract at the price and/or terms of payment proposed is contingent upon satisfactory credit review and approval. Pricing is based on acceptance of BOXX's standard contract terms and conditions, along with timely receipt of any contractually required down payment.

Initials: _____

Specifications

MODULAR BUILDING INFORMATION

<u>Unit No(s).</u>	<u>Unit Size(s)</u>	<u>State(s) Coded</u>	<u>Building Description</u>
NEW	12' X 60'	CA	Modular Scale House

SPECIFICATIONS

1.0 BUILDING INFORMATION:

OCCUPANCY CLASSIFICATION	B
TYPE OF CONSTRUCTION	V-B
REGULATORY AGENCY	HCD
MODEL CODE	CBC
CERTIFICATION	MBI SEAL

2.0 DESIGN LOADS

UNIFORM LIVE FLOOR LOAD	100	psf	Offices
CONCENTRATED FLOOR LOAD	2000	lbs.	
FLOOR DEAD LOAD	System weight		
UNIFORM LIVE ROOF LOAD	60	psf	
	5	psf	for future solar by others
SEISMIC DESIGN CATEGORY	D		
CLIMATE ZONE	16		

3.0 SIZE

12'-0" x 60'-0" Nominal	12'-0" x 60'-0" Actual
-------------------------	------------------------

4.0 FRAME

TYPE:	Perimeter Steel
MAIN BEAM:	Manufacturer's Standard "I"
HITCH:	Bolt on
AXLES:	Manufacturer's Standard-New
TIRES:	Manufacturer's Standard-New
UNDER COATING:	Rust Inhibitive Latex Black

5.0 FLOOR

BOTTOM BOARD:	Manufacturer's Standard
INSULATION:	R-30
JOISTS:	Steel "Z" 16" O.C.
DECKING:	1-1/8" minimum

6.0 EXTERIOR WALLS

STUDS:	2x6 Manufacturer's Standard	Wood Framed
EXTERIOR SHEATHING	LP Smart Panel	MBCI
INERIOR SHEATHING	FRP	
BUILDING WRAP	Air Infiltration Barrier(Tyvek or Equal)	
INSULATION:	R-21	
SKIRTING:	None	
COLUMNS:	Manufacturer's Standard	

Initials: _____

7.0 INTERIOR WALLS

FRAMING Wood
INT. WALL HT: 8'-0" Nominal / 7'-10" Actual
COVERING: FRP
INSULATION: R-11 Unfaced

8.0 ROOF

RAFTERS: 2x10
SLOPE: Shed 1/2" : 12"
OVERHANG None
CEILING: 2x4 Suspended T-Grid Vinyl Faced
7'-10" Finish Ceiling Height
INSULATION: HCD Compliant
SHEATHING: Manufacturer's Standard
SUBSTRATE 1/4" Densdeck
FINISH ROOFING: EPDM
MANSARD: none
DRAFT STOP not applicable

9.0 DOORS: See Door Schedule

10.0 WINDOWS: See Window Schedule

11.0 FINISHES See Finish Schedule

12.0 THERMAL & MOISTURE PROTECTION

FINISH ROOFING EPDM White 60 mil.
FLASHING Exterior Envelope as Required for Weatherproofing

13.0 ELECTRICAL:

LOADCENTER: 120/208V 200 1-Phase, e/w Main Ckt., 22 KAIC
RACEWAY Metal Conduit/Flex
WIRING: Copper
INT. LIGHTS: 24" X 48" LED (LAY-IN) W/ Diffuser
HCD Compliant
PORCH LIGHTS LED-Manufacturer's Standard
EGRESS LIGHTS: LED Manufacturer's Standard e/w Battery Backup
EMERGENCY LIGHTS: LED Manufacturer's Standard e/w Battery Backup
CONTROLS Occupancy Sensors
RECEPTS: 120V/20A Duplex-White
GFCI All Wet Areas
WP-GFCI Exterior by Each Exit Door
As required for HVAC Maintenance
J-Box Dedicated for Fire Alarm Control Panel
DATA DROPS: 25 J-Box, 3/4" conduit stubbed to Attic, e/w Pull String and Bushing

Initials: _____

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 RACEWAY: Metal Conduit/Flex
 WIRING: Copper
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 HCD Compliant
 PORCH LIGHTS: LED-Manufacturer's Standard
 EGRESS LIGHTS: LED Manufacturer's Standard e/w Battery Backup
 EMERGENCY LIGHTS: LED Manufacturer's Standard e/w Battery Backup
 CONTROLS: Occupancy Sensors
 RECEPTS: 120V/20A Duplex-White
 GFIC: All Wet Areas
 WP-GFIC: Exterior by Each Exit Door
 As required for HVAC Maintenance
 J-Box: Dedicated for Fire Alarm Control Panel
 DATA DROPS: 25 J-Box, 3/4" conduit stubbed to Attic, e/w Pull String and Bushing

Initials: _____

Delineation of Responsibilities

Division	Sub	Description	BOXX	Mono Cty.	Optional	NA
DIVISION 00 : PROCUREMENT & CONTRACTING REQUIREMENTS						
	003146	Permits-State	X			
	003146	Permits-Local Authority Having Jurisdiction		X		
		Impact Fees		X		
	006100	Bonds-Performance / Payment			X	
		Insurance	X	X		
DIVISION 1 : GENERAL CONDITIONS						
	1500	Temporary Heat/Lighting	X			
		Portable Toilets	X			
		Temporary Water & Power	X			
	1502	Site Cleanup/Dumpster	X			
		Final Clean	X			
	1700	Closeout/Acceptance	X			
	1900	Miscellaneous				
		Taxes		X		
		Prevailing Wage Scale (Davis-Bacon)	X			
		Safety and Security Access Requirements For Workers	X			
		Project Terms of Payment	X	X		
		Invoicing Procedure	X	X		
DIVISION 2 : EXISTING CONDITIONS						
		Demolition		X		
		Surveys		X		
	023200	Geotechnical Investigation		X		
	2000	Site Work		X		
		Accessibility to Building Pad		X		
DIVISION 3 : Concrete						
	3300	Foundation-Modular Building			X	
	3300	Step/Ramp/Deck			X	
DIVISION 5 : METALS						
	6670	Handrails			X	
		Concrete Embeds			X	
DIVISION 6 : WOOD, PLASTICS & COMPOSITES						
		Cabinets & Counters	X			
DIVISION 7 : THERMAL & MOISTURE PROTECTION						
		Foundation Waterproofing			X	
		Flashing	X			
		Finish Roofing	X			
		Sheet Metal Exterior Wall	X			

Initials: _____

Delineation of Responsibilities

Division	Sub	Description	BOXX	Mono Cty.	Optional	NA
DIVISION 8 : OPENINGS						
		Doors-Interior & Exterior	X			
		Hardware	X			
		Windows	X			
DIVISION 9 : Finishes						
		(See Finish Schedule in Specifications)	X			
DIVISION 10 : SPECIALTIES (SITE ONLY)						
	10100	Marker/Chalk/Tack Boards				X
	10425	Signage/Braille	X			
	10520	Fire Extinguishers	X			
	10532	Awnings/Canopies			X	
	10800	Toilet Accessories	X			
		Lockers	X			
DIVISION 13 : BUILDING (MODULAR BUILDING)						
	13121	Delivery Of Modular Units To Site Including Transp. Permits	X			
	13122	Piers				X
	13123	Set-up	X			
		Remove Hitches (Store Under Bldg or Stage Per Customer Req.)	X			
		Place Modular Building on Concrete Foundation	X			
	13125	Trim Out Exterior & Interior Walls/ Ceiling/Floors/Adjust Doors	X			
	13126	Anchor Modular Units Per Design Criteria	X			
	13127	Skirting Match Bldg Siding (Frame, Vents, Access Panel Included)				X
	13128	Roof Seaming	X			
DIVISION 14 : Conveying Equipment						
		(none)				
DIVISION 21 : FIRE SUPPRESSION						
		(none)				
DIVISION 22 : PLUMBING						
		Fixtures	X			
		Waste-Building Only	X			
		Water Domestic- Building Only	X			
		Pressure Reducing Valve				X
		HVAC Condensate to Grade	X			
		Water Domestic- Holding Tank		X		
		Waste Septic System		X		

Initials: _____

Delineation of Responsibilities

Division	Sub	Description	BOXX	Mono Cty.	Optional	NA
DIVISION 23 : HVAC						
		HVAC Equipment and Controls	X			
		Comfort Balance	X			
		Certified Balance				X
DIVISION 25 : INTEGRATED AUTOMATION						
		Energy Management System				X
DIVISION 26 : ELECTRICAL						
		Site Electrical Distribution		X		
		Transformers		X		
		Modular Building Main Distribution Panel	X			
	16410	Connect Modular Building to Site Electrical Service		X		
	16740	Clocks/Bells		X		
	16750	Communication Systems		X		
		Lightning Protection			X	
DIVISION 27 : COMMUNICATIONS						
		Pull Box with Conduit Stubbed to Attic Concealing in Walls	X			
	16770	Data / Comm Systems (eqpt.,racks, switches, cabling, programming)		X		
		Tap Existing Data / Comm Service For Site		X		
		Test & Certification		X		
DIVISION 28 : ELECTRONIC SAFETY & SECURITY						
		Pull Box with Conduit Stubbed to Attic Concealing in Walls	X			
		Access Control		X		
		Video Surveillance		X		
		Gas Detection		X		
		Fire Alarm		X		
DIVISION 31 : EARTHWORK						
		Site Clearing / Degrub		X		
		Erosion Control		X		
	2160	Excavation & Grading		X		
		Spoilage Disposal		X		

Initials: _____

Delineation of Responsibilities

Division	Sub	Description	BOXX	Mono Cty.	Optional	NA
DIVISION 32 : EXTERIOR IMPROVEMENTS						
		Paving		X		
		Curbs, Gutters, Sidewalks, Driveways		X		
		Fencing		X		
		Retaining Walls		X		
		Irrigation		X		
	2900	Landscaping		X		
		Site Restoration		X		
DIVISION 32 : UTILITIES (site)						
	2740	Domestic Water		X		
		Sanitary Sewage		X		
		Storm Water		X		
		Data / Comm-Backbone		X		

Initials: _____

This proposal is valid for 10 calendar days

TIMELINE

Estimated Completion

Milestone Description

4-6 wks. after Receipt of Order **State Submittal of Construction Documents**

18-20 wks. after State approval **Factory Fabrication**

1 wk. after Fabrication **Transport**

3 wks. after Delivery **Installation**

SCHEDULE NOTES

Within 10 days of receipt of order a detailed GANNT Chart will be submitted

Changes during the design during construction document development may cause delay

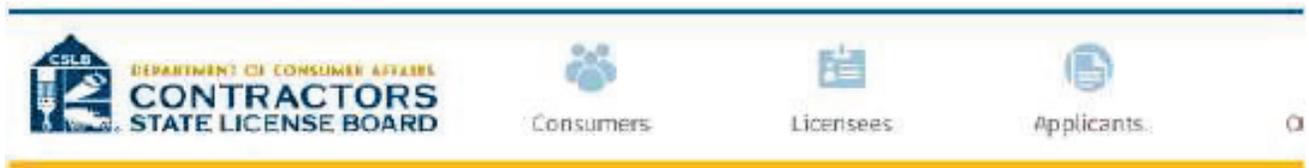
Extended approval duration of plans and specifications may cause delay.

Initials: _____

PLEASE NOTE: THIS PROPOSAL IS CONTINGENT ON THE FOLLOWING CONDITIONS:

1. Unless otherwise specified, Proposal is valid for 10 calendar days from the "Proposal Date". Building costs and production schedules change daily. At expiration of validity period Price and Delivery are subject to change without notice until Proposer accepts Order.
2. Any Project Schedule provided with the Proposal is an estimate. Project Schedule will be confirmed at or around the time of Award and may be subject to change orders throughout the Project.
3. Pricing quoted herein is based on an CA-HCD state approved modular building for a B occupancy using type 5B construction. Additional requirements by the local authority having jurisdiction may be cause for a price adjustment.
4. The Proposal is submitted based on the understanding that the Agreement to be signed shall have terms and conditions, including payment terms, which are mutually agreed upon by both parties.
5. BOXX's willingness to enter into a contract at the price and/or terms of payment proposed is contingent upon satisfactory credit review and approval
6. BOXX's proposal is submitted subject to a mutually agreed upon Master Project/Milestone Schedule.
7. BOXX's proposal is based on newly manufactured modular structures. Delivery of the structures is dependent on the actual date an agreement is fully executed.
8. Due to volatility in fuel prices delivery charges are subject to a fuel surcharge at the time delivery is scheduled
9. BOXX's willingness to enter into a contract at the price and/or terms of payment proposed is contingent upon satisfactory credit review and approval.
10. Unless otherwise agreed to in advance as a condition of the Contract, price assumes the use of non-union labor at prevailing wages. Any requirement for the payment of union labor or a project specific labor agreement will result in additional charges.

Initials: _____

General Contractor's License

[Home](#) | [Online Services](#) | License Details

Contractor's License Detail for License # 1012474

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

- ▶ CSLB complaint disclosure is restricted by law ([B&P 7124.6](#)) If this entity is subject to public complaint disclosure click on link that will appear below for more information. Click [here](#) for a definition of disclosable actions.
- ▶ Only construction related civil judgments reported to CSLB are disclosed ([B&P 7071.17](#)).
- ▶ Arbitrations are not listed unless the contractor fails to comply with the terms.
- ▶ Due to workload, there may be relevant information that has not yet been entered into the board's license database.

Business Information

BOXX MODULAR INC
 3475 HIGH RIVER ROAD
 FORT WORTH, TX 76155
 Business Phone Number: (972) 492-4040

Entity Corporation
Issue Date 03/25/2016
Expire Date 03/31/2024

License Status

This license is current and active.

Initials: _____

HCD Dealer's License



[Home](#)

Occupational License Detail — Dealer

License Number: DL1280869
Licensee Name: BOXX MODULAR INC
Status: Active
Original Issue Date: 12/01/2015
Expiration Date: 12/31/2023
Business Name: BOXX MODULAR INC
DBA Name:
Main Location: 1844 WILSON AVE, UPLAND, CA 91784
Participating Person: JOHN P DIBENEDETTO, Responsible Managing Employee
Active Employees: 1
Additional Locations:

HCD Sales Person License



[Home](#)

Occupational License Detail — Salesperson

License Number: SP908577
Salesperson Name: JOHN P DIBENEDETTO
Status: Active
Original Issue Date: 05/31/1988
Expiration Date: 05/31/2024
Business Name: BOXX MODULAR INC DL1280869
DBA Name:
Main Location: 1844 WILSON AVE, UPLAND, CA 91784
Additional Locations:

Initials: _____

DIR Registration



Public Works Contractor Registration Search

15 BOXX Modular, Inc.

Detail:

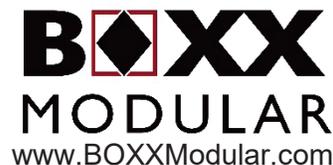
Registration Number:	PW-LR-1000903026
Status:	Active
CSLB Number:	1012474
Legal Entity Type:	Corporation
Mailing Address:	3475 High River Road Fort Worth TX 76155
County:	undefined
Craft:	
Email:	boxx-licensing@boxxmodular.com

Registration History

Effective Date	Expiration Date
7/1/2022	6/30/2023

EXTRA PAGE 5

BOXX Modular builds for you!



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modular project PROPOSAL

July 11, 2023

BOXX Project: Q-54177
RFP: [Number]



Mono County Mono County-Gatehouse Pumice Valley

Lee Vining, CA

BOXX Modular, Inc. (Corporate Office)
3475 High River Road | Fort Worth, TX | 76155

(877) 966-7839 | BOXXModular.com | ussales@boxxmodular.com



July 11, 2023

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Sincerely,



Jack DiBenedetto
Major Project Sales Representative

modular project
Sale Price Detail

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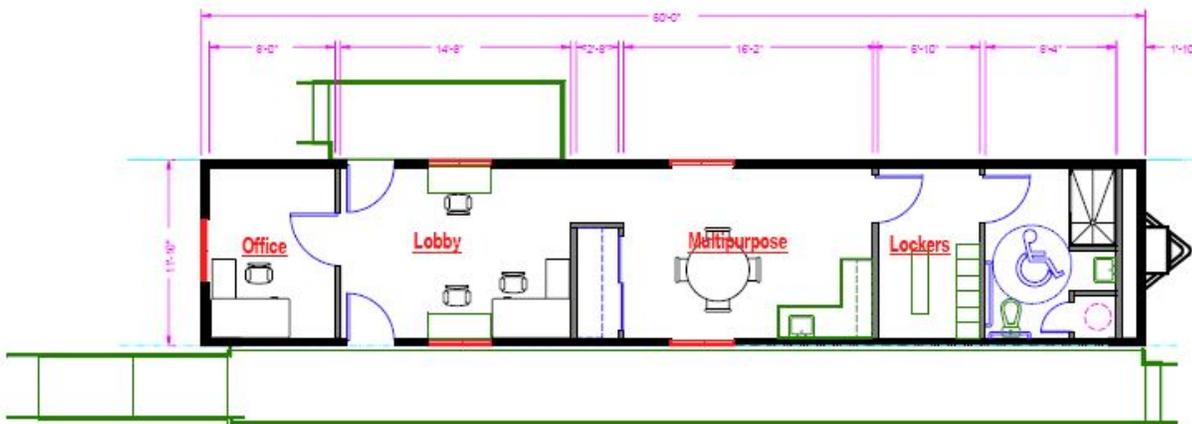
OPTIONS

Initials = Selected

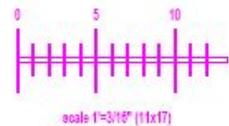
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Amount (usd
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Schematic FloorPlan



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Initials: _____

BOXX
MODULAR
www.BOXXModular.com

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INT. LIGHTS: 24" X 48" LED (LAY-IN) W/ Diffuser
HCD Compliant
PORCH LIGHTS LED-Manufacturer's Standard
EGRESS LIGHTS: LED Manufacturer's Standard e/w Battery Backup
EMERGENCY LIGHTS: LED Manufacturer's Standard e/w Battery Backup
CONTROLS Occupancy Sensors
RECEPTS: 120V/20A Duplex-White
GFC All Wet Areas
WP-GFC Exterior by Each Exit Door
As required for HVAC Maintenance
J-Box Dedicated for Fire Alarm Control Panel
DATA DROPS: 25 J-Box, 3/4" conduit stubbed to Attic, e/w Pull String and Bushing

Initials: _____

7.0 INTERIOR WALLS

FRAMING: Wood
 INT. WALL HT: 8'-0" Nominal / 7'-10" Actual
 COVERING: FRP
 INSULATION: R-11 Unfaced

8.0 ROOF

RAFTERS: 2x10
 SLOPE: Shed 1/2" : 12"
 OVERHANG: None
 CEILING: 2x4 Suspended T-Grid Vinyl Faced
 7'-10" Finish Ceiling Height
 INSULATION: HCD Compliant
 SHEATHING: Manufacturer's Standard
 SUBSTRATE: 1/4" Densdeck
 FINISH ROOFING: EPDM
 MANSARD: none
 DRAFT STOP: not applicable

9.0 DOORS:

See Door Schedule

10.0 WINDOWS:

See Window Schedule

11.0 FINISHES

See Finish Schedule

12.0 THERMAL & MOISTURE PROTECTION

FINISH ROOFING: EPDM White 60 mil.
 FLASHING: Exterior Envelope as Required for Weatherproofing

13.0 ELECTRICAL:

LOADCENTER: 120/208V 200 1-Phase, e/w Main Ckt., 22 KAIC
 RACEWAY: Metal Conduit/Flex
 WIRING: Copper
 INT. LIGHTS: 24" X 48" LED (LAY-IN) W/ Diffuser
 HCD Compliant
 PORCH LIGHTS: LED-Manufacturer's Standard
 EGRESS LIGHTS: LED Manufacturer's Standard e/w Battery Backup
 EMERGENCY LIGHTS: LED Manufacturer's Standard e/w Battery Backup
 CONTROLS: Occupancy Sensors
 RECEPTS: 120V/20A Duplex-White
 GFIC: All Wet Areas
 WP-GFIC: Exterior by Each Exit Door
 As required for HVAC Maintenance
 J-Box: Dedicated for Fire Alarm Control Panel
 DATA DROPS: 25 J-Box, 3/4" conduit stubbed to Attic, e/w Pull String and Bushing

Initials: _____

Delineation of Responsibilities

Division	Sub	Description	BOXX	Mono Cty.	Optional	NA
DIVISION 00 : PROCUREMENT & CONTRACTING REQUIREMENTS						
	003146	Permits-State	X			
	003146	Permits-Local Authority Having Jurisdiction		X		
		Impact Fees		X		
	006100	Bonds-Performance / Payment			X	
		Insurance	X	X		
DIVISION 1 : GENERAL CONDITIONS						
	1500	Temporary Heat/Lighting	X			
		Portable Toilets	X			
		Temporary Water & Power	X			
	1502	Site Cleanup/Dumpster	X			
		Final Clean	X			
	1700	Closeout/Acceptance	X			
	1900	Miscellaneous				
		Taxes		X		
		Prevailing Wage Scale (Davis-Bacon)	X			
		Safety and Security Access Requirements For Workers	X			
		Project Terms of Payment	X	X		
		Invoicing Procedure	X	X		
DIVISION 2 : EXISTING CONDITIONS						
		Demolition		X		
		Surveys		X		
	023200	Geotechnical Investigation		X		
	2000	Site Work		X		
		Accessibility to Building Pad		X		
DIVISION 3 : Concrete						
	3300	Foundation-Modular Building			X	
	3300	Step/Ramp/Deck			X	
DIVISION 5 : METALS						
	6670	Handrails			X	
		Concrete Embeds			X	
DIVISION 6 : WOOD, PLASTICS & COMPOSITES						
		Cabinets & Counters	X			
DIVISION 7 : THERMAL & MOISTURE PROTECTION						
		Foundation Waterproofing			X	
		Flashing	X			
		Finish Roofing	X			
		Sheet Metal Exterior Wall	X			

Initials: _____

Delineation of Responsibilities

Division	Sub	Description	BOXX	Mono Cty.	Optional	NA
DIVISION 8 : OPENINGS						
		Doors-Interior & Exterior	X			
		Hardware	X			
		Windows	X			
DIVISION 9 : Finishes						
		(See Finish Schedule in Specifications)	X			
DIVISION 10 : SPECIALTIES (SITE ONLY)						
	10100	Marker/Chalk/Tack Boards				X
	10425	Signage/Braille	X			
	10520	Fire Extinguishers	X			
	10532	Awnings/Canopies			X	
	10800	Toilet Accessories	X			
		Lockers	X			
DIVISION 13 : BUILDING (MODULAR BUILDING)						
	13121	Delivery Of Modular Units To Site Including Transp. Permits	X			
	13122	Piers				X
	13123	Set-up	X			
		Remove Hitches (Store Under Bldg or Stage Per Customer Req.)	X			
		Place Modular Building on Concrete Foundation	X			
	13125	Trim Out Exterior & Interior Walls/ Ceiling/Floors/Adjust Doors	X			
	13126	Anchor Modular Units Per Design Criteria	X			
	13127	Skirting Match Bldg Siding (Frame, Vents, Access Panel Included)				X
	13128	Roof Seaming	X			
DIVISION 14 : Conveying Equipment						
		(none)				
DIVISION 21 : FIRE SUPPRESSION						
		(none)				
DIVISION 22 : PLUMBING						
		Fixtures	X			
		Waste-Building Only	X			
		Water Domestic- Building Only	X			
		Pressure Reducing Valve				X
		HVAC Condensate to Grade	X			
		Water Domestic- Holding Tank		X		
		Waste Septic System		X		

Initials: _____

Delineation of Responsibilities

Division	Sub	Description	BOXX	Mono Cty.	Optional	NA
DIVISION 23 : HVAC						
		HVAC Equipment and Controls	X			
		Comfort Balance	X			
		Certified Balance				X
DIVISION 25 : INTEGRATED AUTOMATION						
		Energy Management System				X
DIVISION 26 : ELECTRICAL						
		Site Electrical Distribution		X		
		Transformers		X		
		Modular Building Main Distribution Panel	X			
	16410	Connect Modular Building to Site Electrical Service		X		
	16740	Clocks/Bells		X		
	16750	Communication Systems		X		
		Lightning Protection			X	
DIVISION 27 : COMMUNICATIONS						
		Pull Box with Conduit Stubbed to Attic Concealing in Walls	X			
	16770	Data / Comm Systems (eqpt.,racks, switches, cabling, programming)		X		
		Tap Existing Data / Comm Service For Site		X		
		Test & Certification		X		
DIVISION 28 : ELECTRONIC SAFETY & SECURITY						
		Pull Box with Conduit Stubbed to Attic Concealing in Walls	X			
		Access Control		X		
		Video Surveillance		X		
		Gas Detection		X		
		Fire Alarm		X		
DIVISION 31 : EARTHWORK						
		Site Clearing / Degrub		X		
		Erosion Control		X		
	2160	Excavation & Grading		X		
		Spoilage Disposal		X		

Initials: _____

Delineation of Responsibilities

Division	Sub	Description	BOXX	Mono Cty.	Optional	NA
DIVISION 32 : EXTERIOR IMPROVEMENTS						
		Paving		X		
		Curbs, Gutters, Sidewalks, Driveways		X		
		Fencing		X		
		Retaining Walls		X		
		Irrigation		X		
	2900	Landscaping		X		
		Site Restoration		X		
DIVISION 32 : UTILITIES (site)						
	2740	Domestic Water		X		
		Sanitary Sewage		X		
		Storm Water		X		
		Data / Comm-Backbone		X		

Initials: _____

This proposal is valid for 10 calendar days

TIMELINE

Estimated Completion

Milestone Description

4-6 wks. after Receipt of Order

State Submittal of Construction Documents

18-20 wks. after State approval

Factory Fabrication

1 wk. after Fabrication

Transport

3 wks. after Delivery

Installation

SCHEDULE NOTES

Within 10 days of receipt of order a detailed GANNT Chart will be submitted

Changes during the design during construction document development may cause delay

Extended approval duration of plans and specifications may cause delay.

Initials: _____

PLEASE NOTE: THIS PROPOSAL IS CONTINGENT ON THE FOLLOWING CONDITIONS:

1. Unless otherwise specified, Proposal is valid for 10 calendar days from the "Proposal Date". Building costs and production schedules change daily. At expiration of validity period Price and Delivery are subject to change without notice until Proposer accepts Order.
2. Any Project Schedule provided with the Proposal is an estimate. Project Schedule will be confirmed at or around the time of Award and may be subject to change orders throughout the Project.
3. Pricing quoted herein is based on an CA-HCD state approved modular building for a B occupancy using type 5B construction. Additional requirements by the local authority having jurisdiction may be cause for a price adjustment.
4. The Proposal is submitted based on the understanding that the Agreement to be signed shall have terms and conditions, including payment terms, which are mutually agreed upon by both parties.
5. BOXX's willingness to enter into a contract at the price and/or terms of payment proposed is contingent upon satisfactory credit review and approval
6. BOXX's proposal is submitted subject to a mutually agreed upon Master Project/Milestone Schedule.
7. BOXX's proposal is based on newly manufactured modular structures. Delivery of the structures is dependent on the actual date an agreement is fully executed.
8. Due to volatility in fuel prices delivery charges are subject to a fuel surcharge at the time delivery is scheduled
9. BOXX's willingness to enter into a contract at the price and/or terms of payment proposed is contingent upon satisfactory credit review and approval.
10. Unless otherwise agreed to in advance as a condition of the Contract, price assumes the use of non-union labor at prevailing wages. Any requirement for the payment of union labor or a project specific labor agreement will result in additional charges.

Initials: _____

General Contractor's License

[Home](#) | [Online Services](#) | License Details

Contractor's License Detail for License # 1012474

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

- ▶ CSLB complaint disclosure is restricted by law ([B&P 7124.6](#)) If this entity is subject to public complaint disclosure click on link that will appear below for more information. Click [here](#) for a definition of disclosable actions.
- ▶ Only construction related civil judgments reported to CSLB are disclosed ([B&P 7071.17](#)).
- ▶ Arbitrations are not listed unless the contractor fails to comply with the terms.
- ▶ Due to workload, there may be relevant information that has not yet been entered into the board's license database.

Business Information

BOXX MODULAR INC
 3475 HIGH RIVER ROAD
 FORT WORTH, TX 76155
 Business Phone Number:(972) 492-4040

Entity Corporation
Issue Date 03/29/2016
Expire Date 03/31/2024

License Status

This license is current and active.

Initials: _____

HCD Dealer's License



[Home](#)

Occupational License Detail — Dealer

License Number DL1280869
Licensee Name BOXX MODULAR INC
Status Active
Original Issue Date 12/01/2015
Expiration Date 12/31/2023
Business Name BOXX MODULAR INC
DBA Name
Main Location 1844 WILSON AVE, UPLAND, CA 91784
Participating Person JOHN P DIBENEDETTO, Responsible Managing Employee
Active Employees 1
Additional Locations

HCD Sales Person License



[Home](#)

Occupational License Detail — Salesperson

License Number SP908577
Salesperson Name JOHN P DIBENEDETTO
Status Active
Original Issue Date 05/31/1988
Expiration Date 05/31/2024
Business Name BOXX MODULAR INC [DL1280869](#)
DBA Name
Main Location 1844 WILSON AVE, UPLAND, CA 91784
Additional Locations

Initials: _____

DIR Registration



Public Works Contractor Registration Search

ES BOXX Modular, Inc.

Detail:

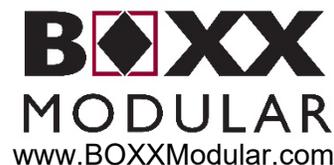
Registration Number: PW-LR-1000903026
Status: Active
CSLB Number: 1012474
Legal Entity Type: Corporation
Mailing Address: 3475 High River Road
Fort Worth
TX 76155
County: undefined
Craft:
Email: boxx-licensing@boxxmodular.com

Registration History

Effective Date	Expiration Date
7/1/2022	6/30/2023

EXTRA PAGE 5

BOXX Modular builds for you!





Legend

Notes

3. Revised Floor Plan	jp'd	04May2023
2. Revised Floor Plan	jp'd	28Sep2022
1. Added Shower	jp'd	28Sep2022

Revisions by app'd YYYY.MM.DD

Permit-Seal

**Preliminary
Not for Construction**

Not for permits, pricing or other official purposes. This document has not been completed or checked and is for general information or comment only.

Client/Project

Mono County
Landfill
Scale House

Title

Schematic Floor Plan

Project No.

Date

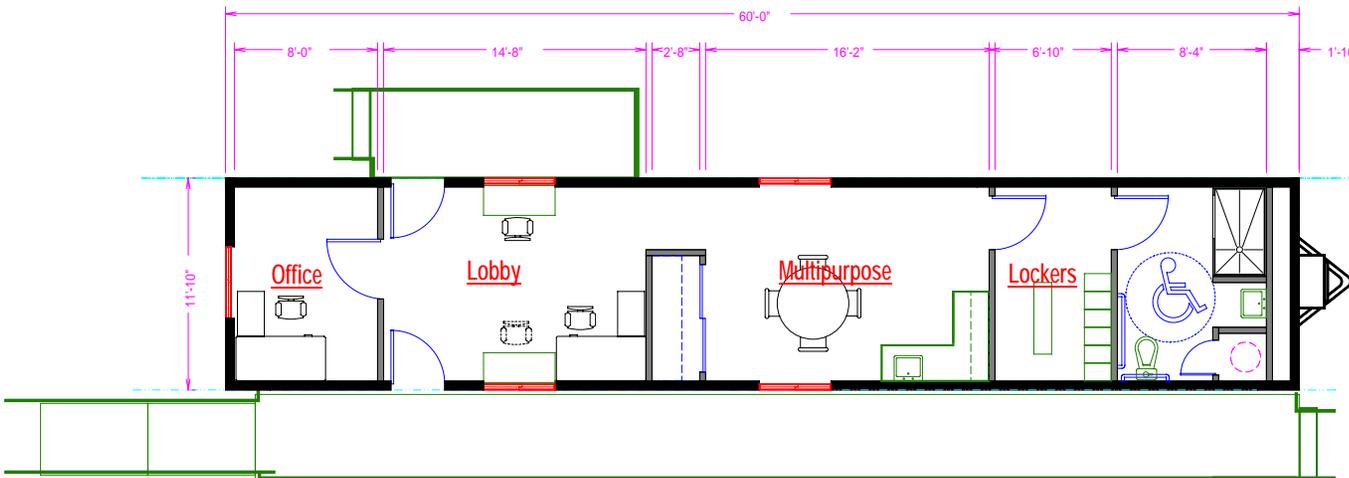
26-SEP-2022

Scale

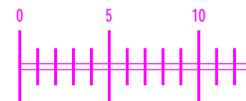
As Indicated

Drawing No.

SK-1.0



Schematic FloorPlan



scale 1"=3/16" (11x17)



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: County Administrative Office

TIME REQUIRED

SUBJECT Cost Share Agreement Related to
2023 Winter Storms

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed Cost-Share agreement for 2023 Winter Storm Emergency with the Town of Mammoth Lakes, Inyo County, and the City of Bishop.

RECOMMENDED ACTION:

Approve, and authorize Chair to sign, Cost-Share agreement.

FISCAL IMPACT:

The agreement provides a methodology and process of sharing Emergency Operations Center (EOC) related expenditures including the costs of personnel, services and supplies, and filing for reimbursement with Federal Emergency Management Agency/California Governor's Office of Emergency Services (FEMA/CalOES). It excludes the cost sharing of each jurisdiction's own existing permanent personnel.

CONTACT NAME: Stacey Simon

PHONE/EMAIL: / ssimon@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p> 2023 winter storms cost sharing agreement</p>
--

History

Time	Who	Approval
7/25/2023 1:08 PM	County Counsel	Yes

7/6/2023 3:14 PM

Finance

Yes

7/25/2023 1:44 PM

County Administrative Office

Yes

COST SHARE AGREEMENT FOR MULTI-AGENCY EMERGENCY RESPONSE TO 2023 WINTER STORMS

This Cost Share Agreement (“Agreement”) is entered into as of February 28, 2023, (“Effective Date”) by and among the County of Mono (“Mono”), the County of Inyo (“Inyo”), the Town of Mammoth Lakes (“Mammoth”), and the City of Bishop (“Bishop”) (collectively, the “Parties”), for the purpose of outlining the basis and methodology for allocating costs incurred by the Parties working collectively as the Incident Management Team (IMT) for the 2023 Winter Storms incident emergency planning and response.

RECITALS

1. On February 28, 2023, Mono County declared a state of emergency due to extreme weather conditions and activated the County Emergency Operations Center.
2. On March 7, 2023, Inyo County declared a state of emergency due to extreme weather conditions and activated the County Emergency Operations Center.
3. The State of California declared a state of emergency due to extreme weather conditions and included Mono County in that declaration on March 1, 2023. On March 7, 2023, the Mammoth Lakes Town Council ratified the Town Manager’s declaration of State of Emergency for the town of Mammoth Lakes.
4. Inyo County was added to the state declaration of emergency on March 8, 2023.
5. On March 10, 2023, President Biden approved an Emergency Declaration for California that included Inyo and Mono Counties.
6. On March 9, 2023, Mono and Inyo County established a joint Emergency Operations Center (EOC) to more effectively manage the extreme weather state of emergency impacting both counties utilizing a Type 1 Incident Management Team to support the emergency response.
7. The Town of Mammoth Lakes provided limited staff support for the EOC/IMT operations.
8. The City of Bishop was engaged as a cooperating agency within the joint EOC.
9. The EOC’s and IMT’s primary areas of activity are: (1) protection of life and safety; (2) storm response and planning; (3) protection of critical infrastructure; (4) stakeholder communication; and (5) timely dissemination of information.
10. In furtherance of these activities, the Parties will incur, or have already incurred, various expenses and charges related to the purchase of services, supplies, equipment, staffing, communications resources, lodging, food water and meals, EOC/IMT leased or rented operational space, and other storm response-related items and services.
11. The purpose of this Agreement is to implement a cost share agreement between the parties for shared activities in responding collectively, as a joint EOC/IMT, to the 2023 Winter Storms incident.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties do hereby agree as follows:

1. Recitals. The above recitals are adopted by the parties as if fully set forth herein.

2. Shared Costs. The following activities, services and goods are subject to the cost share provisions of this Agreement:

- Operational facilities and support services provided to support the joint EOC for the mutual benefit of all agencies.
- All costs, including expenses, rates and miscellaneous charges, for contractual services provided to support the EOC/IMT assisting with 2023 Winter Storms response, provided that the contract amount and the nature of the service was provided in support of all the parties and not substantially supporting a single agency (substantial means 80% or more of the cost directed to one agency).
- All equipment, materials and supplies purchased at the direction of the EOC/IMT for use in 2023 Winter Storm response and planning. Cost allocation will be based on the location where such materials were used or directed to assist specific needs within a party's jurisdiction. If specific locations are not identified the cost will be shared across jurisdictions using accounting provided by the EOC/IMT.
- All costs to lease, rent or otherwise secure lodging, storage space or any other physical facility for use by the EOC/IMT and/or other out-of-area resources who provided services to the mutual benefit of all agencies will be shared based on Section 3 below.
- Employee costs incurred by the parties for full-time, part-time, contract, or emergency hires and all support costs (travel, meals, lodging, equipment, miscellaneous items) are the responsibility of the employing party.
- Any other cost or expense determined by the EOC/IMT to be necessary to provide effective 2023 Winter Storm response and planning, will be shared across jurisdictions using accounting provided by the EOC/IMT or if directed use is for single agency, then that agency will be responsible for the costs.
- Costs not allocated to a specific party and believed by a party to be a shared cost will be presented to the agency administrators of the parties (Town/City Managers and County CAOs) for a final decision.
- Any disputed cost allocation will be addressed by the agency administrators of the parties.

3. Allocation of Shared Costs.

- Costs for EOC/IMT ordered resources will be shared based on the allocation of time, mileage, or item distribution count where the resources were used based on accounting provided by the EOC/IMT. This may include costs incurred to support the resources such as meals, lodging, travel, and miscellaneous costs.
- To the extent that costs are attributable to a single party based on resource tracking, that party shall be solely responsible for the associated costs.
- To the extent that resources are shared beyond two parties, those parties shall be solely responsible for the associated costs. If the share of costs is not documented by resource tracking, or cannot otherwise be attributed to any party, those costs shall be shared mutually by the parties receiving benefit of the services per the terms outlined below.
- Costs benefiting all four agencies and not subject to direct allocations based on direct use, assignments or other direct measurement will be shared as follows:
 - Inyo County 31%
 - Mono County 31%
 - Town of Mammoth Lakes 31%
 - City of Bishop 7%

- The same cost allocation will be used to pay costs for which one party will be designated to pursue cost reimbursement. Reimbursements will be split based on the costs share allocations.
- Sharing of Costs directly benefiting two or three of the parties will be based upon on the allocation percentages agreed upon by the administrators of the parties.
- Reimbursement of shared costs will be divided between the parties based on the amounts allocated to them. A single party will be designated by the administrators of the parties to file for reimbursement of shared costs.
- Each party will pursue reimbursement for direct costs incurred by that party which are not a part of the allocated costs. If a party elects not to submit a claim for reimbursement, then that party shall pay 100% of the expense.
- The reimbursable amount of any cost may be remitted for cost sharing under the terms of this agreement.
- Any party may partner with any other agency not a party to this agreement to recover mutually beneficial costs or to cooperatively pursue reimbursements from other sources outside of the parties to this agreement.
- **Unreimbursed Costs.** Any expenses accrued that are submitted for reimbursement but not fully reimbursed by FEMA/Cal OES or other agency for any reason (e.g., not qualified, insufficient documentation, match requirement, etc.) shall be determined during the Final Accounting Period and shared among the parties in accordance with the respective cost share amounts noted herein.
- **Costs Incurred by State or Federal Partners.** Any expenses accrued by the parties' State or Federal partners (e.g., CalOES, FEMA, CalFire) for which local reimbursement is required for any reason (e.g., match requirement) shall be listed in the Final Accounting Report during the Final Accounting Period and shared among the Parties in accordance with the allocations provided herein.

4. Regular Meetings. Party Administrators will meet regularly to discuss the status of cost sharing, reimbursements, and related matters, to determine the allocation of any disputed cost, or other matters related to this cost share agreement. Meetings may include other appropriate agency staff.

5. Counterparts. This Agreement may be executed in two (2) or more counterparts (including by electronic transmission), each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument. For purposes of the agreement a photocopy, facsimile, .pdf, and electronically scanned signatures, including but not limited to DocuSign or similar service, shall as deemed to be as valid and as enforceable as an original.

6. Entire Agreement. This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless executed in writing by the parties hereto.

IN WITNESS WHEREOF, Mono, Inyo, Mammoth, and Bishop have executed this Agreement on the _____ day of _____, 2023.

MONO COUNTY

RHONDA DUGGAN, Board Chair _____ Date

Approved as to Form:

Mono County Counsel

INYO COUNTY

JENNIFER ROESER, Board Chair _____ Date

Approved as to Form:

Inyo County Counsel

TOWN OF MAMMOTH LAKES



Daniel C. Holler 7-20-23
Town Manager _____ Date

Approved as to Form:



Town Attorney
Andrew Morris

CITY OF BISHOP

Deston Dishion _____ Date
City Administrator

Approved as to Form:

City Attorney
Dean J. Pucci



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: Sheriff

TIME REQUIRED

SUBJECT FY 2023-24 Boating Safety and
Enforcement Financial Aid Program
Application

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

The Board of Supervisors approved Resolution 23-002 on January 17, 2023, authorizing the Mono County Sheriff-Coroner, Mono County Sheriff's Office Emergency Services Coordinator, and/or the Mono County Sheriff's Office Finance Officer to apply for and administer the Boating Safety and Enforcement Financial Aid Program Agreement for FY 2023/24. The California Department of Parks and Recreation, Division of Boating and Waterways, requested that additional language be added to Section Three of the Resolution to read: "The County Auditor shall be authorized to certify the amount of prior year vessel taxes received by the county." The proposed resolution makes that change, is otherwise identical to R23-002, and would supersede and replace R23-002.

RECOMMENDED ACTION:

Adopt proposed resolution authorizing the Mono County Sheriff-Coroner, Mono County Sheriff's Office Emergency Services Coordinator, and/or the Mono County Sheriff's Office Finance Officer to apply for and administer the Boating Safety and Enforcement Financial Aid Program Agreement for FY 2023/24 and superseding and replacing prior Resolution R23-002.

FISCAL IMPACT:

The award will not exceed \$136,017. There is no match requirement for this grant. In previous years, this grant was used to pay on-going costs associated with regular boating patrol on 23 lakes and to enforce California boating laws applicable to our area. Past grant expenditures include salaries, overtime, benefits, maintenance, supplies, training, vehicle expenses, utilities, and occasionally replacement of equipment. Costs incurred and not covered by the grant are transferred to the Sheriff's budget.

CONTACT NAME: Ingrid Braun

PHONE/EMAIL: 760-932-7549 / ibraun@monosheriff.org

SEND COPIES TO:

Sheriff Braun

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
☐ Staff report
☐ Resolution (revised)
☐ Resolution (original)

History

Time	Who	Approval
7/24/2023 10:23 AM	County Counsel	Yes
7/25/2023 12:45 PM	Finance	Yes
7/25/2023 1:44 PM	County Administrative Office	Yes

MONO COUNTY
SHERIFF

A Commitment to Community Safety and Service



Ingrid Braun
Sheriff-Coroner

DATE: August 1, 2023
TO: The Honorable Board of Supervisors

Clint Dohmen
Undersheriff

FROM: Ingrid Braun, Sheriff-Coroner

SUBJECT: California Department of Parks and Recreation, Division of Boating and Waterways, Fiscal Year 2023-2024 Boating Safety and Enforcement Financial Aid Program Agreement

RECOMMENDATION:

Adopt Resolution authorizing the Mono County Sheriff-Coroner, Mono County Sheriff's Office Emergency Services Coordinator, and/or the Mono County Sheriff's Office Finance Officer to apply for and administer the Boating Safety and Enforcement Financial Aid Program Agreement for Fiscal Year 2023-24 and superseding and replacing Resolution R23-002. The Boating Safety and Enforcement Financial Aid Program Agreement will not exceed \$136,017.52.

DISCUSSION:

The Board of Supervisors approved Resolution 23-002 on January 17, 2023. The California Department of Parks and Recreation, Division of Boating and Waterways, requested additional language in the resolution. Section Three of the Resolution has added language that reads: "The County Auditor shall be authorized to certify the amount of prior year vessel taxes received by the county." There are no other changes, and this updated resolution replaces and supersedes the initial resolution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "IB", written over a white background.

Ingrid Braun
Sheriff-Coroner



R23-

**A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS
AUTHORIZING THE COUNTY'S PARTICIPATION IN THE FY 2023-2024
CALIFORNIA DEPARTMENT OF BOATING AND WATERWAYS GRANT
PROGRAM; DESIGNATING THE SHERIFF-CORONER AS AN AUTHORIZED
AGENT TO SIGN FOR AND ADMINISTER THE GRANT; AND SUPERSEDING AND
REPLACING RESOLUTION R23-002**

WHEREAS, Mono County, a political subdivision of the State of California, wishes to participate in the 2023-2024 California Department of Boating and Waterways grant program and to authorize the Mono County Sheriff-Coroner to act as its agent to apply for and administer grants thereunder; and

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF MONO RESOLVES that:

SECTION ONE: The County of Mono's participation in the 2023-2024 California Department of Boating and Waterways grant program is hereby authorized.

SECTION TWO: The Mono County Sheriff-Coroner, Mono County Sheriff's Office Emergency Management Coordinator, or the Mono County Sheriff's Office Finance Officer (the "Department") is authorized to execute for and on behalf of Mono County, following review and approval as to form by County Counsel, any documents necessary for the purpose of obtaining and administering financial assistance provided by the State of California Department of Boating and Waterways and to act as the County's agent with respect thereto.

SECTION THREE: The Department shall not allocate funds to any county or a public agency within the county unless the Department receives a resolution adopted annually by the Board of Supervisors authorizing the county to participate in the program and certifying that the county will expend for boating safety programs during that year not less than an amount equal to 100 percent of the amount received by the county from personal property taxes on vessels. The money allocated to the county shall be used only for boating safety and enforcement programs that are conducted in that county. The County Auditor shall be authorized to certify the amount of prior year vessel taxes received by the county.



R23-002

**A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS
AUTHORIZING THE COUNTY'S PARTICIPATION IN THE FY 2023-2024
CALIFORNIA DEPARTMENT OF BOATING AND WATERWAYS GRANT
PROGRAM AND DESIGNATING THE SHERIFF-CORONER AS AN AUTHORIZED
AGENT TO SIGN FOR AND ADMINISTER THE GRANT**

WHEREAS, Mono County, a political subdivision of the State of California, wishes to participate in the 2023-2024 California Department of Boating and Waterways grant program and to authorize the Mono County Sheriff-Coroner to act as its agent to apply for and administer grants thereunder; and

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF MONO RESOLVES that:

SECTION ONE: The County of Mono's participation in the 2023-2024 California Department of Boating and Waterways grant program is hereby authorized.

SECTION TWO: The Mono County Sheriff-Coroner, Mono County Sheriff's Office Emergency Management Coordinator, or the Mono County Sheriff's Office Finance Officer (the "Department") is authorized to execute for and on behalf of Mono County, following review and approval as to form by County Counsel, any documents necessary for the purpose of obtaining and administering financial assistance provided by the State of California Department of Boating and Waterways and to act as the County's agent with respect thereto.

SECTION THREE: The Department shall not allocate funds to any county or a public agency within the county unless the Department receives a resolution adopted annually by the board of supervisors authorizing the county to participate in the program and certifying that the county will expend for boating safety programs during that year not less than an amount equal to 100 percent of the amount received by the county from personal property taxes on vessels. The money allocated to the county shall be used only for boating safety and enforcement programs that are conducted in that county.

PASSED, APPROVED and ADOPTED this 17th day of January 2023, by the following vote, to wit:

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AYES: Supervisors Duggan, Gardner, Kreitz, Peters, and Salcido.

NOES: None.

ABSENT: None.

ABSTAIN: None.


Rhonda Duggan (Jan 18, 2023 09:59 PST)

Rhonda Duggan, Chair
Mono County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:



Clerk of the Board


Stacey Simon (Jan 18, 2023 09:31 PST)

County Counsel



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: Public Works - Engineering

TIME REQUIRED 10 minutes

**PERSONS
APPEARING
BEFORE THE
BOARD**

Chad Senior, Engineer and Paul
Roten, Public Works Director

SUBJECT Emergency Repair Benton Crossing
Road and Northshore Drive

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed resolution to contract emergency repairs for Benton Crossing Road and Northshore Drive.

RECOMMENDED ACTION:

Adopt proposed resolution. Provide any desired direction to staff.

FISCAL IMPACT:

Funded by SB1, with potential for reimbursement by CalOES or FEMA.

CONTACT NAME: Paul Roten

PHONE/EMAIL: 7909325440 / proten@mono.ca.gov

SEND COPIES TO:

speters@mono.ca.gov kdodd@mono.ca.gov
proten@mono.ca.gov

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
Staff report
Resolution
sample contract

History

Time	Who	Approval
7/26/2023 3:59 PM	County Counsel	Yes

7/25/2023 12:41 PM

Finance

Yes

7/27/2023 11:42 AM

County Administrative Office

Yes



MONO COUNTY

DEPARTMENT OF PUBLIC WORKS

POST OFFICE BOX 457 • 74 NORTH SCHOOL STREET • BRIDGEPORT, CALIFORNIA 93517
760.932.5440 • monopw@mono.ca.gov www.monocounty.ca.gov

Date: August 1, 2023
To: Honorable Chair and Members of the Board of Supervisors
From: Chad Senior, Associate Engineer
Re: Emergency road repairs on Benton Crossing Road and Northshore Drive

Background and Identified Emergency

Mono County proclaimed and ratified two emergency declarations due to the 2022/2023 Severe Winter Storms January and March 2023. Both emergency declarations are on-going at this time and will continue until terminated by the Board of Supervisors. The 2022/2023 winter precipitation caused flooding, debris flows, scouring of road shoulders, saturation of pavement subgrades, all of which necessitated increased heavy equipment movement on Mono County's paved roads. The combination these occurrences caused the failure of previously sound asphalt on many roads county-wide.

In particular, Benton Crossing Road and Northshore Drive sustained significant damage due to the winter storms and associated runoff. Detailed site inspection was significantly delayed due to many damaged areas being submerged by water flowing from adjacent federal lands well into June. When inspection did occur, it revealed pavement structural failure at multiple locations. At many locations the existing asphalt broke off the edge of the road longitudinally, reducing required traffic lane width and creating a large vertical drop adjacent to the roadway. Additionally, unravelling of existing asphalt and complete structural failure has occurred across entire traffic lane widths, reducing road width to one lane or less. These road hazards are currently being mitigated with placement of temporary dirt fill, traffic cones, and road warning signs.

Repair of these roads needs to be completed prior to the upcoming winter season because the temporary measures put into place during summer (cones, signage and temporary dirt fill) will not be viable during winter snows, the roads cannot be plowed in their current condition due to surface damage, and it is likely that additional damage would be sustained due to water seeping beneath the roadway through damaged areas. Because the work must be completed prior to winter snows (which typically start in November, but can begin as early as September or October, there is not sufficient time to comply with the requirement for solicitation by competitive bids.

The Need to Dispense with Competitive Bidding

To complete a formal bidding process, Mono County would need to obtain a topographic survey of the damaged area, prepare road repairs plan set, prepare project specifications, prepare a bid package and publicly advertise the project for a minimum of thirty days. Award of the contract would take a

minimum of two weeks to complete. In total, the competitive bidding process would be expected to take four to six months to complete, placing the earliest start of construction in December. Asphalt is typically not available after October and cold weather / possible snow would not permit construction. Accordingly, competitively bidding the road repair project would delay necessary repairs to the spring / summer of 2024, leaving Benton Crossing Road and Northshore Drive in a damaged and unplowable state during the winter of 2023-24, resulting in danger to road users and likely causing additional damage to the roads. Thus, the exigency will not permit a delay in the road repairs resulting from competitive bidding based on these time constraints.

Contractor Services to be Procured and Cost of Work

The contractor will pulverize the damaged road sections to a depth of approximately 6-inches and rebuild the road structure with the pulverized grindings. This method provides beneficial reuse of material and provides additional material to construct needed road shoulders that have washed away due to runoff. Three inches of hot mix asphalt will be placed at all repair locations. The estimated cost of the road repairs is \$344,618 which includes \$305,000 for construction, 10 percent contingency and 3 percent for required construction engineering; see attached Preliminary Engineers Cost Estimate. Actual cost will depend on informal bids received by available and interested contractors.

Non-Competitive Bid Process

Upon Board authorization today, Public Works will immediately send a cost proposal request to all contractors which have performed asphalt paving in Mono County. A bid schedule will be provided based on the Engineer's Preliminary Cost Estimate quantities. The proposal evaluation factors will include immediate availability to do the work and cost. If a contractor can be procured, necessary road repairs will commence as soon as hot mix asphalt is available from the local batch plant. Construction would be expected to last 5 to 10 days. Construction is expected to be completed before the end of October.

Mitigation of Conflicts of Interest

Conflicts of interest will be mitigated in the non-competitive procurement process by requesting cost proposals from all known paving contractors which perform asphalt paving in Mono County. Additionally, the evaluation factors of availability and cost will identify the lowest responsible bidder capable of performing the work prior to winter for all proposals received from interested contractors.

Public Events

Note, two public events are scheduled to occur on these damaged roads. The June Lake Triathlon will occur on North Shore Drive August 19th and the Gran Fondo bicycle race will occur on Benton Crossing Road on September 9th. Repairs will not be completed on Northshore Drive before the June Lake Triathlon. Road damage creating public safety hazards will be mitigated with traffic cones, temporary warning signs, and if necessary other temporary traffic control measures. It is possible, but

very unlikely, that road repair work will be completed on Benton Crossing Road prior to the Gran Fondo on September 9. However, Benton Crossing Road will be closed to the public for the Gran Fondo race alleviating some of the public safety hazard. Bicycles will be safely routed through the damage locations using traffic cones and temporary warning signs.

Summary

Per Public Contracting Code Section 22050, a governing body has the authority, in the case of an emergency, to repair or replace a facility, take any directly related and immediate action required by that emergency, procure necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts. Before doing this, the Board must (1) make a finding, based on the evidence provided, that the emergency road repairs on Benton Crossing Road and Northshore Drive are required prior to the upcoming winter so as not to cause the delay that would result from a competitive solicitation for bids, and that (2) the repair of the road prior to the winter season is necessary to respond to the present emergency and the exigency of the upcoming winter.

Adopting the proposed Resolution making these findings will permit the Public Works Department to pursue non-competitive procurement to complete necessary road repairs before the upcoming winter season.

Please contact me at (760) 924-1812 or by email at cseior@mono.ca.gov if you have any questions regarding this matter.

Respectfully submitted,



Chad Senior
Associate Engineer

Attachments: Board Resolution
Engineer's Preliminary Cost Estimate



R23-__

**A RESOLUTION OF THE MONO COUNTY
BOARD OF SUPERVISORS FINDING THAT CONDITIONS OF EMERGENCY
REQUIRE IMMEDIATE REPAIR TO BENTON CROSSING ROAD AND NORTH
SHORE DRIVE, THAT THE EMERGENCY CONDITIONS REQUIRE REMEDIATION
PRIOR TO THE ONSET OF WINTER WHICH WILL NOT PERMIT A DELAY
RESULTING FROM A COMPETITIVE SOLICITATION FOR BIDS AND
AUTHORIZING PUBLIC WORKS TO PROCEED TO CONTRACT FOR THE
REPAIRS WITHOUT COMPETITIVE SOLICITATION FOR BIDS**

WHEREAS, Mono County proclaimed a local emergency in January 2023 and again in March 2023 due to a series of severe winter storm events commencing in January 2023 (R23-003, R23-021). Both emergency declarations are on-going at this time and will continue until terminated by the Board of Supervisors; and

WHEREAS, both Benton Crossing Road and Northshore Drive (the “roads”) within the County sustained significant damage due to the winter storms and associated runoff. Structural failure of the roads has occurred at multiple locations reducing required lane width, removing required shoulders, and/or reducing the road to one traffic lane. All damaged locations create a public safety hazard. This damage could not be fully assessed until June of 2023, due to ongoing flooding of the roads from adjacent federal lands, making it impossible to develop specifications or a request for bids to complete the repair; and

WHEREAS, the road safety hazards on Benton Crossing Road and Northshore Drive are currently being mitigated temporarily with traffic cones, temporary dirt fill and road warning signs. However, the road safety hazards cannot be mitigated in this manner through the upcoming winter season and structural repair of the roads, including placement of hot mix asphalt, at damaged locations is necessary to protect road users; and

WHEREAS, repair of the road damage cannot be commenced prior to August of 2023, due to continuing runoff and saturated soils at the damaged locations. Site inspection showed runoff continuing through the month of June at some damaged locations and funding for the work was only recently identified. An asphalt paving contractor is required to perform the needed work, which is beyond the ability of the Mono County Road Division to complete; and

WHEREAS, the temporary mitigation of road hazards currently in-place to provide public safety cannot be maintained through the upcoming winter season because anticipated normal snow and icy conditions will prevent the maintenance of cones and signage; and

WHEREAS, in their current damaged condition, the roads would not be plowable with a snowplow this winter, due to structural damage. If the roads are not repaired with hot mix asphalt prior to winter and a significant amount of snowfall occurs, the roads will need to be closed, cutting off access between communities, limiting the accessibility of populated areas for

1 emergency services such as EMS and law enforcement, and causing residents, visitors and the
2 traveling public to detour in some cases for hundreds of miles to reach their destinations; and

3 **WHEREAS**, additionally, if not repaired earlier, the roads will likely sustain additional
4 damage this winter even if closed and the snow is not plowed, as existing road damage will
5 permit water to enter underneath the roads, likely compromising additional sections of roadway;
6 and

7 **WHEREAS**, based on historical experience in Mono County, and as described in more
8 detail in the staff report accompanying this resolution, a formal, competitive bid process to
9 obtain a paving contractor to complete road repairs requires four to six months to complete; and

10 **WHEREAS**, the road repair work must be completed prior to November 2023, in order
11 to ensure that the roads are passable and plowable when winter 2023-24 commences and a
12 formal, competitive bidding process would delay that repair work until May or June of 2024, as
13 work cannot occur during winter months;

14 **NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF**
15 **MONO FINDS AND RESOLVES** that:

- 16 1. The foregoing recitals are true and correct and are hereby adopted as findings of the
17 Board.
- 18 2. The information set forth in this resolution and in the staff report provided to the Board
19 demonstrate that emergency conditions exist on Benton Crossing Road and Northshore
20 Drive which require immediate repair that will not permit a delay resulting from the
21 competitive bidding process, and that completion of hot mix asphalt road repairs is
22 necessary to alleviate the emergency, in accordance with Public Contract Code section
23 22050.
- 24 3. The Board authorizes the Director of the Department of Public Works to solicit informal
25 quotes and to enter into a sole source contract or contracts, approved as to form by
26 County Counsel, with an asphalt/paving contractor or contractors to complete Benton
27 Crossing Road and Northshore Drive repairs before this coming winter, without a
28 competitive solicitation for bids.
- 29 4. The Public Works Director is directed to agendize this matter at the Board's next
30 regularly-scheduled meeting for review and determination, by a 4/5 vote, of whether
31 there is a need to continue the emergency action. Thereafter, the Public Works Director
32 shall agendize this matter at subsequent meetings of the Board, with not more than 14
days between meetings, for continuing determination, by a 4/5 vote, of whether there is a
need to continue the emergency action, until such time as the action is terminated by the
Board or completed.

33 **PASSED, APPROVED** and **ADOPTED** this 1st day of August, 2023, by the following
34 vote, to wit:

35 **AYES:**

36 **NOES:**

37 **ABSENT:**

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ABSTAIN:

Rhonda Duggan, Chair
Mono County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Clerk of the Board

County Counsel

**AGREEMENT BETWEEN COUNTY OF MONO
AND [CONTRACTOR]
FOR THE PROVISION OF PAVEMENT RECONSTRUCTION SERVICES**

INTRODUCTION

WHEREAS, the County of Mono (hereinafter referred to as "County") may have the need for the services of [CONTRACTOR] of [CITY, STATE] (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK

Contractor shall furnish to County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by County to Contractor to perform under this Agreement will be made by the Director of Public Works, or an authorized representative thereof. Requests to Contractor for work or services to be performed under this Agreement will be based upon County's need for such services. County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of Contractor by County under this Agreement. By this Agreement, County incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by Contractor at County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and county laws, ordinances, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those that are referred to in this Agreement.

This Agreement is subject to the following Exhibits (as noted) which are attached hereto, following all referenced Attachments, and incorporated by this reference. In the event of a conflict between the terms of an attached Exhibit and this Agreement, the terms of the Exhibit shall govern:

- Exhibit 1:** General Conditions (Construction)
- Exhibit 2:** Prevailing Wages
- Exhibit 3:** Bond Requirements
- Exhibit 4:** Invoicing, Payment, and Retention
- Exhibit 5:** Trenching Requirements
- Exhibit 6:** FHWA Requirements
- Exhibit 7:** CDBG Requirements
- Exhibit 8:** HIPAA Business Associate Agreement
- Exhibit 9:** Additional Contract Provisions Applicable to Federal Assistance Contracts and Other Federal Awards

2. TERM

The term of this Agreement shall be from August 15, 2023, to December 31, 2023, unless sooner terminated as provided below.

3. CONSIDERATION

A. Compensation. County shall pay Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A that are performed by Contractor at County's request.

B. Travel and Per Diem. Contractor will not be paid or reimbursed for travel expenses or per diem that Contractor incurs in providing services and work requested by County under this Agreement, unless otherwise provided for in Attachment B.

C. No Additional Consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by County to Contractor for services and work performed under this Agreement shall not exceed [X Dollars (\$X)], plus the amount of any change order(s) approved in accordance with authority delegated by the Board of Supervisors (hereinafter referred to as "Contract Limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed that is in excess of the Contract Limit.

E. Billing and Payment. Contractor shall submit to County, on a monthly basis, an itemized statement of all services and work described in Attachment A, which were done at County's request. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. Alternatively, Contractor may submit a single request for payment corresponding to a single incident of service or work performed at County's request. All statements submitted in request for payment shall identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Invoicing shall be informative but concise regarding services and work performed during that billing period. Upon finding that Contractor has satisfactorily completed the work and performed the services as requested, County shall make payment to Contractor within 30 days of its receipt of the itemized statement. Should County determine the services or work have not been completed or performed as requested and/or should Contractor produce an incorrect statement, County shall withhold payment until the services and work are satisfactorily completed or performed and/or the statement is corrected and resubmitted.

If Exhibit 4 ("Invoicing, Payment, and Retention") is attached to this Agreement, then the language contained in 4 shall supersede and replace this Paragraph 3.E. in its entirety.

F. Federal and State Taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County shall withhold California state income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed One Thousand Four Hundred Ninety-Nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such

sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board.

4. WORK SCHEDULE

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A that are requested by County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor, in arranging his/her schedule, will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS

Any licenses, certificates, or permits required by the federal, state, county, or municipal governments, for Contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits that are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, support services and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

7. COUNTY PROPERTY

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, uniforms, vehicles, reference materials, furniture, appliances, etc. provided to Contractor by County pursuant to this Agreement is, and at the termination of this Agreement remains, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, that is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, videotapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind that are created, produced, assembled, compiled by, or are the result, product, or

manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement shall remain, the sole and exclusive property of County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

8. INSURANCE

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

A. Minimum Scope and Limit of Insurance. Coverage shall be at least as broad as (please select all applicable):

Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

Workers' Compensation: as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

Worker's Compensation Exempt: Contractor is exempt from obtaining Workers' Compensation insurance because Contractor has no employees. Contractor shall notify County and provide proof of Workers' Compensation insurance to County within 10 days if an employee is hired. Such Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of County for all work performed by Contractor, its employees, agents, and subcontractors. Contractor agrees to defend and indemnify County in case of claims arising from Contractor's failure to provide Workers' Compensation insurance for employees, agents and subcontractors, as required by law.

Professional Liability (Errors and Omissions): Insurance appropriate to the Contractor's profession, with limit no less than \$1,000,000 per occurrence or claim, \$1,000,000 aggregate.

Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$1,000,000 policy aggregate.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

B. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

- (1) **Additional Insured Status:** The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).
- (2) **Primary Coverage:** For any claims related to this contract, the Contractor's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.
- (3) **Umbrella or Excess Policy:** The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.
- (4) **Notice of Cancellation:** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the County.
- (5) **Waiver of Subrogation:** Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.
- (6) **Self-Insured Retentions:** Self-insured retentions must be declared to and approved by the County. The County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$100,000 unless approved in writing by County. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. County may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. County reserves the right to obtain a copy of any policies and endorsements for verification.

- (7) **Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.
- (8) **Claims Made Policies:** If any of the required policies provide claims-made coverage:
 - a. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
 - c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.
- (9) **Verification of Coverage:** Contractor shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
- (10) **Special Risks or Circumstances:** County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

9. STATUS OF CONTRACTOR

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as an independent contractor, and not as an agent, officer, or employee of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of, or exercise any right or power vested in, County, except as expressly provided by law or set forth in Attachment A. No agent, officer, or employee of County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not, under any circumstances, be construed to create an employer-employee relationship or a joint venture. As an independent contractor:

- A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.
- B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.
- C. Contractor, its agents, officers and employees are, and at all times during the term of this Agreement shall represent and conduct themselves as, independent contractors, and not employees of County.

10. DEFENSE AND INDEMNIFICATION

Contractor shall defend with counsel acceptable to County, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from or in connection with, the performance of this Agreement by Contractor, or Contractor's agents, officers, or employees. Contractor's obligation to defend, indemnify, and hold County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, damage or destruction to tangible or intangible property, including the loss of use. Contractor's obligation under this Paragraph extends to any claim, damage, loss, liability, expense, or other costs that are caused in whole or in part by any act or omission of Contractor, its agents, employees, supplier, or anyone directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Contractor's obligation to defend, indemnify, and hold County, its agents, officers, and employees harmless under the provisions of this Paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance and shall survive any termination or expiration of this Agreement.

11. RECORDS AND AUDIT

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this Paragraph by substitute photographs, micrographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, that County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

12. NONDISCRIMINATION

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religious creed, color, ancestry, national origin, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act.

13. TERMINATION

This Agreement may be terminated by County without cause, and at will, for any reason by giving to Contractor thirty (30) calendar days written notice of such intent to terminate. Contractor may terminate this Agreement without cause, and at will, for any reason whatsoever by giving to County thirty (30) calendar days written notice of such intent to terminate.

Notwithstanding the foregoing, if this Agreement is subject to General Conditions (set forth as an Exhibit hereto), then termination shall be in accordance with the General Conditions and this Paragraph shall not apply.

14. ASSIGNMENT

This is an agreement for the personal services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any moneys due or to become due under this Agreement without the prior written consent of County.

15. DEFAULT

If Contractor abandons the work, fails to proceed with the work or services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, then County may declare Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

16. WAIVER OF DEFAULT

Waiver of any default by either party to this Agreement shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in Paragraph 22.

17. CONFIDENTIALITY

Contractor agrees to comply with various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential, all such privileged, restricted or confidential information and records obtained in the course of providing the work and services under this Agreement. Disclosure of such information or records shall be made by Contractor only with the express written consent of County.

18. CONFLICTS

Contractor agrees that he/she has no interest, and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of the work and services under this Agreement. Contractor agrees to complete and file a conflict-of-interest statement.

19. POST-AGREEMENT COVENANT

Contractor agrees not to use any confidential, protected, or privileged information that is gained from County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two (2) years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with County, or who has been an adverse party in litigation with County, and concerning such, Contractor by virtue of this Agreement has gained access to County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, then the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

21. FUNDING LIMITATION

The ability of County to enter into this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to terminate, reduce, or modify this Agreement, or any of its terms within ten (10) days of notifying Contractor of the termination, reduction, or modification of available funding. Any reduction or modification of this Agreement effective pursuant to this provision must comply with the requirements of Paragraph 22.

22. AMENDMENT

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change order is in written form, and executed with the same formalities as this Agreement or in accordance with delegated authority therefor, and attached to the original Agreement to maintain continuity.

23. NOTICE

Any notice, communication, amendments, additions or deletions to this Agreement, including change of address of any party during the term of this Agreement, which Contractor or County shall be required, or may desire to make, shall be in writing and may be personally served, or sent by prepaid first-class mail or email (if included below) to the respective parties as follows:

County of Mono:
Mono County Public Works Department
Paul Roten, Public Works Director
PO Box 457
Bridgeport, CA 93517
PRoten@mono.ca.gov

Contractor:
CONTRACTOR NAME
ATTN:
ADDRESS
PHONE
EMAIL

24. COUNTERPARTS

This Agreement may be executed in two (2) or more counterparts (including by electronic transmission), each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument. For purposes of the agreement a photocopy, facsimile, .pdf, and electronically scanned signatures,

including but not limited to DocuSign or similar service, shall be deemed to be as valid and as enforceable as an original.

25. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless executed in writing by the parties hereto.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS, EFFECTIVE AS OF THE DATE LAST SET FORTH BELOW, OR THE COMMENCEMENT DATE PROVIDED IN PARAGRAPH 2 OF THIS AGREEMENT, WHICHEVER IS EARLIER.

COUNTY OF MONO

CONTRACTOR

By: _____

By: _____

Title: _____

Title: _____

Dated: _____

Dated: _____

APPROVED AS TO FORM:

County Counsel

APPROVED BY RISK MANAGEMENT:

Risk Manager

ATTACHMENT A

**AGREEMENT BETWEEN THE COUNTY OF MONO
AND [CONTRACTOR]
FOR THE PROVISION OF PAVEMENT RECONSTRUCTION SERVICES**

TERM:

FROM: 8/15/2023 TO: 12/31/2023

SCOPE OF WORK:

Contractor shall construct, project Bid Items 1 through 9 set forth in the project cost proposal and included in Attachment B of this agreement.

Road repair work shall include the following items:

1. Full-depth reclamation of damaged road sections as directed by the County Engineer in the field including pulverization of damaged asphalt pavement, rebuilding of road section to base grade with asphalt grindings, placement of a minimum of 3 inches of hot mix asphalt (3/4" HMA, PG 64-28, Type A, Polymer Modified preferred). The hot mix asphalt mix design shall be approved by County Engineer prior to placement;
2. Installation of shoulder backing (2' minimum from edge of pavement) using excess asphalt grindings from pulverization process.
3. Traffic control and water pollution control in accordance with applicable regulation, standards and industry practice.

Tasks performed in completing the Project shall follow generally accepted practices for the construction industry and shall meet the minimum requirements and guidelines established by federal, state, and local agencies. Work tasks shall be coordinated with County's Department of Public Works.

Note: This Agreement and Scope of Work includes and is subject to the provisions of the Contract Documents and the General Prevailing Wage Rates established by the California Department of Industrial Relations in effect at the time of bid of this project, which documents are attached hereto and/or by this reference incorporated herein.

SCHEDULE OF FEES:

See Bid Schedule set forth in Attachment B of this Agreement and incorporated herein.

WORK SCHEDULE:

See Contract Documents, attached hereto and incorporated herein. All work shall be completed within Thirty (30) working days of the start of construction date stated in the Notice to Proceed issued by the County. Completion of site improvements shall be specified by the Department of Public Works in a Notice of Completion filed in the Office of the County Recorder.

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ATTACHMENT B

**AGREEMENT BETWEEN THE COUNTY OF MONO
AND [CONTRACTOR] FOR
THE PROVISION OF PAVEMENT RECONSTRUCTION SERVICES**

TERM:

FROM: 8/15/2023 TO: 12/31/2023

SCHEDULE OF FEES:

See Bid Schedule, attached hereto and incorporated herein as Attachment B1. As specified in Paragraph 3.D of the Agreement, the total project cost shall not exceed [X Dollars (\$X)] unless otherwise authorized by the County in writing prior to Contractor incurring additional expenses. Upon the County's written approval and authorization to proceed, payment shall be made for any additional items or tasks not initially specified in Attachment A (Scope of Work) attached to the Agreement and incorporated herein.

See Attachment B1, incorporated herein by this reference (optional).

ATTACHMENT B1

[INSERT BID SCHEDULE]

EXHIBIT 1

AGREEMENT BETWEEN THE COUNTY OF MONO AND [CONTRACTOR] FOR THE PROVISION OF PAVEMENT RECONSTRUCTION SERVICES

GENERAL CONDITIONS

SECTION 1. GENERAL

1.1 DEFINITIONS AND TERMS.

Where the following terms are used in these General Conditions, the intent and meaning shall be interpreted as identified in the Standard Specifications and as follows:

- A. **ADMITTED SURETY INSURER (or, SURETY):** A corporate insurer or inter-insurance exchange to which the State Insurance Commissioner has issued a certificate of authority to transact surety insurance in California, as defined in Section 105 of the Insurance Code.
- B. **AWARD:** The acceptance by the County of the successful bidder's proposal.
- C. **CALENDAR DAY:** Unless otherwise specified, days or calendar days means each and every day shown on the calendar, Saturdays, Sundays, and holidays included.
- D. **CHANGE ORDER:** A written order to the Contractor covering changes in the plans, specifications, or proposal quantities and establishing the basis of payment and contract time adjustment, if any, for the work affected by such changes. The work, covered by a change order, shall be within the scope of the contract.
- E. **CONTRACT (or, CONTRACT DOCUMENTS):** The written and executed agreement between the County and the Contractor covering the work to be performed. The written agreement consists of all attachments as well as all documents incorporated by reference and shall include, but is not limited to, the agreement, performance bond, labor and materials payment bond, any required insurance certificates, the project manual, any addenda issued to bidders, and the project plans.
- F. **CONTRACTOR:** The business entity entering into a contract with the County of Mono for the performance of the work.
- G. **CONTRACT ITEM (or, PAY ITEM):** A specific unit of work for which a price is provided in the Contract.
- H. **CONTRACT TIME:** The number of calendar days or working days, for completion of the contract, including authorized time extensions. If a calendar date of completion is stated in the proposal, in lieu of a number of calendar or working days, the contract shall be completed by that date.
- I. **COUNTY:** The County of Mono, a political subdivision of the State of California.
- J. **DEPARTMENT:** The Mono County Department of Public Works, except where Department of Transportation publications and offices are cited, whereupon such citations are to remain as written and refer to the State of California, Department of Transportation.
- K. **ENGINEER:** The individual, partnership, firm, or corporation duly authorized by the County to be responsible for engineering supervision of the contract work and acting directly or through an authorized representative.
- L. **EQUIPMENT:** All machinery, together with the necessary supplies for upkeep and maintenance, and also all tools and apparatus necessary for the proper construction and acceptable completion of the work.

- M. **EXTRA WORK:** An item of work not provided for in the awarded contract as previously modified by change order or supplemental agreement, but which is found by the Engineer to be necessary to complete the work within the intended scope of the contract as previously modified.
- N. **INSPECTOR:** An authorized representative of the Engineer assigned to make all necessary inspections and/or tests of the work performed or being performed, or of the materials furnished or being furnished by the Contractor.
- O. **LABORATORY:** The laboratory or laboratories authorized by the Department to test materials and work involved in the contract.
- P. **LIQUIDATED DAMAGES:** the daily amount set forth in these General Conditions to be deducted from the contract price to cover additional costs incurred by a local agency because of the contractor's failure to complete the contract work within the number of calendar days or workdays specified.
- Q. **NOTICE TO PROCEED:** A written notice from the Department to the Contractor to begin the actual contract work on the Project. If applicable, the Notice to Proceed shall state the date on which the contract time begins.
- R. **PROJECT:** The construction, installation, placement, alteration, or repair of any improvement of any kind, which is required directly or indirectly by the contract.
- S. **SPECIFICATIONS:** A part of the contract containing the written directions and requirements for completing the contract work. Standards for specifying materials or testing which are cited in the contract specifications by reference shall have the same force and effect as if physically included in the contract.
- T. **STANDARD PLANS:** State of California Department of Transportation, 2010 edition of the Standard Plans
- U. **STANDARD SPECIFICATIONS:** State of California Department of Transportation, 2010 edition of the Standard Specifications
- V. **SUPERINTENDENT:** The Contractor's executive representative who is present on the work during progress, authorized to receive and fulfill instructions from the Engineer, and who shall supervise and direct the construction.
- W. **SURVEYOR:** The individual, partnership, firm, or corporation duly authorized by the Contractor to be responsible for verifying placement of the work and acting directly or through an authorized representative.
- X. **UNEXCUSABLE DELAY:** a delay that does not entitle the Contractor to an adjustment of the Contract Limit and does not entitle the Contractor to an adjustment of the Contract Time.
- Y. **WORK:** The construction and services required by the Contract, whether completed in whole or partially completed, and includes all labor, materials, equipment, tools, supplies, tax, transportation, and services provided or to be provided by the Contractor to fulfill Contractor's obligations. The Work may constitute the whole or a part of the Project.
- z. **WORKING DAY:** A working day shall be any day other than a legal holiday, Saturday, or Sunday on which the normal working forces of the Contractor may proceed with regular work for at least 6 hours toward completion of the contract. Unless work is suspended for causes beyond the Contractor's control, Saturdays, Sundays, and holidays on which the Contractor's forces engage in regular work, requiring the presence of an inspector, will be considered working days.

1.2 ORDER OF PRECEDENCE OF DOCUMENTS.

In case of conflict between the Agreement, any Attachments to the Agreement, any Special Provisions, Project Plans, Technical Specifications, Quality Assurance Program (QAP) Plan, Standard Plans or Standard

Specifications or other portions of the Contract Documents, including the Invitation for Bids and Instructions to Bidders, the more specific provision shall govern.

SECTION 2. PERFORMANCE OF WORK

2.1 USE OF PREMISES, HOURS OF WORK, CONTACT INFORMATION AND PUBLIC NOTIFICATION.

- A. Work occurring within 500 feet of a residential or commercial occupancy shall be limited to the hours between 7:00 am and 8:00 pm Monday through Saturday (Sunday operations shall be limited to hours between 9:00 am and 5:00 pm). Concrete pouring is limited to daylight hours between sunrise and sunset.
- B. Unless otherwise provided, the Contractor accepts full control of any vehicles, equipment, material, or other property delivered to the site in the performance of services and work for the Project. The Contractor is solely responsible for ensuring the security and protection of such vehicles, equipment, materials, property, and Work. The County accepts no responsibility for the security, safety, or liability of said vehicles, equipment, material, property, or work until final acceptance of the Work. The Contractor understands that the project site is a public area and, as such, there may be vandalism or obstructions, protrusions, and undesirable materials on and under the ground surface that may result in damage to the Contractor's vehicles, equipment, materials, project work, or other property.
- C. Authorized representatives or agents of the Engineer and County, state, or federal government shall have the right to enter the project site at any time during execution of the Work for any purpose that will not unreasonably interfere with the Contractor's use, including, but not limited to, the conduct of its own business, facility inspection, or inspection to ensure compliance with the terms and conditions of the Project.
- D. 24 Hour Contact Number - The Contractor shall assign a project superintendent and an assistant who have the complete authority to make decisions on behalf of the Contractor. The project superintendent or the assistant shall be at the project site at all times during the construction and shall be available and on call 24 hours a day, 7 days per week for the duration of the project. The Contractor shall provide the Engineer and the Mono County Sheriff's Department primary and secondary 24-hour mobile phone numbers for the project superintendent and the assistant. These numbers shall not automatically direct calls to a recorder or other message taking service.
- E. Advance Public Notification – At least 7 days and no more than 14 days prior to beginning any work on the project, the Contractor shall deliver written notice to all adjoining residents, businesses, tenants, to the fire department and law enforcement agency having jurisdiction over the project area, and other applicable parties listed below. Notice shall be given for general construction activity in an area as well as specific activities that will, in any way, inconvenience residents/property owners/tenants or affect their operations or access to their property. Such notices shall include the expected date for start of construction, a general description of the construction activity to take place, expected duration, and the name, address, and contact number of the Contractor's superintendent and of the County Engineer. A follow up notice shall be distributed two days prior to the construction activity. Copies of all notices shall be provided to the Engineer for approval five working days prior to the desired distribution date.

NOTICE SHALL ADDITIONALLY BE PROVIDED TO THE FOLLOWING, OR AS FOLLOWS:

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- F. Vehicular access – Vehicular access to and from commercial and residential driveways and parking lots shall be maintained at all times, except when performing items of work that cannot be accomplished without access restriction.

2.2 OTHER PROJECTS.

The Contractor is advised that other projects may be taking place at the site at the same time as this Project. The Contractor will make every effort to coordinate his work with that of other contractors.

2.3 PROTECTION OF PROPERTY.

Attention is directed to Section 5-1.36, "Property and Facility Preservation," of the Standard Specifications. The Contractor shall take all reasonable precautions to preserve and protect all on-site and surrounding public and private property to prevent damage of all kinds to existing structures, signs, fences, gates, roads, drainage facilities, monitoring wells, equipment, and the environment arising from the execution of this Contract, unless otherwise called for on Project Plans or in these General Conditions. In addition, the Contractor shall be responsible for the preservation and protection of all land monuments and property markers.

In addition to its obligations pursuant to the Agreement to defend, indemnify, and hold the County harmless, the Contractor shall replace, repair, and/or be responsible for any damage or injury to property of any character during the prosecution of the Work, resulting from any act, omission, neglect, or misconduct in the Contractor's manner or method of executing the Work, or at any time due to defective work or materials, and said responsibility shall not be released until the Project is completed and accepted. Repairs or replacement required as a result of such damage shall be performed to the County's satisfaction and at no additional cost to the County.

It is the Contractor's responsibility to identify and document any property or site damage that exists prior to the start of construction. If undocumented damage is discovered by the County that could have been caused as a result of the Contractor's presence, it will be the Contractor's responsibility to repair the damage to the County's satisfaction without cost to the County. If the Contractor does not repair the damage to the County's satisfaction, the County has the right, after 48 hours of written notification, to repair the damage and charge the Contractor for all expenses associated with the repair.

The Contractor shall be responsible for the safety of all persons at or near the project site as it pertains to the Project. The Contractor shall provide signage, temporary protective fencing, or covering over any open trenching, excavation, or other hazardous situation arising from the execution of the Work, to keep out unauthorized persons, at no additional cost to the County.

2.4 ENVIRONMENTAL PROTECTION.

The Contractor shall comply with all federal, state, and local laws and regulations controlling pollution of the environment. All necessary precautions shall be taken to prevent pollution of streams, drainage channels, lakes, ponds, and reservoirs with fuels, oils, bitumens, chemicals, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter. Any fuel or lubricants stored on-site shall be in appropriate and secure containers provided with secondary containment.

2.5 REMOVAL OF ASBESTOS AND HAZARDOUS SUBSTANCES.

Should the Contractor encounter materials which the Contractor reasonably believes to be asbestos or a hazardous substance as defined in Section 25914.1 of the Health and Safety Code, and the asbestos or hazardous substance has not been rendered harmless, the Contractor may continue work in unaffected areas reasonably believed to be safe, and shall immediately cease work in the affected area and immediately report the condition to the Engineer in writing.

In accordance with Section 25914.1 et seq. of the Health and Safety Code, all such removal of asbestos or hazardous substances, including any exploratory work to identify and determine the extent of such asbestos or hazardous substance, shall be performed by a person properly licensed to perform such work and shall be performed by separate contract if the presence of asbestos or hazardous substances is not disclosed in the bid documents.

2.6 ARCHAEOLOGICAL AND HISTORICAL FINDINGS.

Should the Contractor encounter, during its operations, any building, part of a building, structure, or object which is incongruous with its surroundings, the Contractor shall immediately cease operations in that location and notify the Engineer. The Engineer will immediately investigate the Contractor's finding and will direct the Contractor to either resume its operations or to suspend operations as directed.

Should the Engineer order suspension of the Contractor's operations in order to protect an archaeological or historical finding, or order the Contractor to perform extra work, such shall be covered by an appropriate contract modification (change order, amended or supplemental agreement).

SECTION 3. ACKNOWLEDGEMENTS, DISCLOSURES, CERTIFICATIONS AND AFFIDAVITS

3.1 DEBARMENT AND SUSPENSION CERTIFICATION

Contractor's signature affixed to the Agreement, shall constitute a certification under penalty of perjury under the laws of the State of California, that Contractor has complied with Title 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined to be of ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the County.

3.2 NATIONAL LABOR RELATIONS BOARD CERTIFICATION

Contractor's signature affixed to the Agreement, shall constitute a certification under penalty of perjury under the laws of the State of California that no more than one final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with a court order to comply with an order of the National Labor Relations Board.

3.3 APPLICABILITY TO SUBCONTRACTORS

The certification and disclosure of lobbying activities forms provided in the Project Manual and/or the Agreement shall be included in each subcontract and any lower-tier contracts exceeding \$10,000. All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the Engineer.

3.4 QUARTERLY DISCLOSURES

The Contractor, subcontractors and any lower-tier contractors shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by the Contractor, subcontractor, or lower-tier contractor. An event that materially affects the accuracy of the information reported includes:

- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action; or
- (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered federal action; or
- (3) A change in the officer(s), employees(s), or member(s) contacted to influence or attempt to influence a covered Federal Action.

SECTION 4. SUBCONTRACTORS

4.1 SUBCONTRACTING.

No subcontract releases the Contractor from the contract or relieves the Contractor of its responsibility for a subcontractor's work.

If the Contractor violates Public Contract Code § 4100 et seq., the County of Mono may exercise the remedies provided under Public Contract Code § 4110 and may refer the violation to the Contractors State License Board as provided under Public Contract Code § 4111.

The Contractor shall perform work equaling at least 30 percent of the value of the original total bid with the Contractor's own employees and equipment, owned or rented, with or without operators.

Each subcontract must comply with the Agreement and all contract documents including, but not limited to insurance requirements. Subcontractor shall provide all certificates and other required documentation/proof of insurance to Contractor, and Contractor shall make such documents available to County upon its request.

Each subcontractor must have an active and valid State contractor's license with a classification appropriate for the work to be performed (Bus & Prof Code, § 7000 et seq.).

The Contractor shall submit copies of subcontracts upon request by the Engineer. Before subcontracted work starts, the Contractor shall submit a Subcontracting Request form to the Engineer. The Contractor shall not use a debarred contractor; a current list of debarred contractors is available at the Department of Industrial Relations web site at: <http://www.dir.ca.gov/dlse/debar.html>

Upon request by the Engineer, the Contractor shall immediately remove and not again use a subcontractor who fails to prosecute the Work satisfactorily.

If the work involves Federal funds, each subcontract and any lower-tier subcontract that may in turn be made shall include the "Required Contract Provisions Federal-Aid Construction Contract" located in the Federal Provisions within the Project Manual.

Payment for subcontracted work involved will be withheld from progress payments due or to become due, until correction is made. Failure to comply may result in termination of the contract.

4.2 PERFORMANCE OF SUBCONTRACTORS

The bid shall list the name and address of each subcontractor to whom the bidder proposes to subcontract portions of the work in an amount in excess of one-half of one percent of the total bid or \$10,000, whichever is greater, in accordance with the Subletting and Subcontracting Fair Practices Act, commencing with Section 4100 of the Public Contract Code. The bidder's attention is invited to other provisions of the Act related to the imposition of penalties for a failure to observe its provisions by using unauthorized subcontractors or by making unauthorized substitutions.

4.3 PROMPT PROGRESS PAYMENT TO SUBCONTRACTORS.

A prime contractor or subcontractor shall pay any subcontractor not later than 7 days from receipt of each progress payment in accordance with the provision in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 7 days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the County's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions and other remedies of that section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

4.4 PROMPT PAYMENT OF WITHHELD FUNDS TO SUBCONTRACTORS.

Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the County's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Please refer to the Federal Provisions (for contracts involving Federal funds), attached to the Agreement for further information. Where the Federal Provisions apply, they shall supersede and replace this section 4.4 to the extent inconsistent herewith.

4.5 APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.

This project is not funded under the Appalachian Regional Development Act of 1965, therefore, page FP-13 of the Federal Provisions (if Federal Provisions are included in the contract) does not apply to this contract.

SECTION 5. PROJECT IMPLEMENTATION

5.1 PRE-CONSTRUCTION CONFERENCE.

Prior to Contractor mobilization, a pre-construction conference will be held at a location, date, and time to be determined by the County for the purpose of discussing with the Contractor the scope of work, Project Plans, Technical Specifications, Special Provisions, , existing conditions, coordination with disposal site operations, equipment and material storage locations, materials testing and construction quality assurance, and all essential matters pertaining to the prosecution of and the satisfactory completion of the Project as required. The Contractor's representative at this conference shall include all major superintendents for the work and may include subcontractors.

5.2 PROSECUTION AND PROGRESS.

The Contractor shall submit a progress schedule for the Engineer's approval within 10 calendar days after the date of the Notice to Award. The Contractor's progress schedule, when approved by the Engineer, may be used to establish major construction operations and to check on the progress of the Work. The Contractor shall provide sufficient materials, equipment, and labor to guarantee the completion of the Project in accordance with and within the time set forth in the Contract Documents.

If, in the sole judgment of the Engineer, the Contractor falls significantly behind the submitted schedule, the Contractor shall, upon the Engineer's request, submit a revised schedule for completion of the Work within the contract time and modify its operations to provide such additional materials, equipment, and labor necessary to meet the revised schedule. Should the prosecution of the Work be discontinued for any reason, the Contractor shall notify the Engineer at least 24 hours in advance of resuming operations.

5.3 ORDER OF WORK.

The project site is located in a climate that can experience freezing temperatures throughout the year. While determination of the means, methods, techniques, sequences, and procedures of construction are the responsibility of the Contractor, such sequencing and procedures must bear climatic conditions in mind. Work shall be scheduled and protected such that inclement weather does not damage the Work or result in a hazardous condition.

SECTION 6. PROJECT ADMINISTRATION

6.1 GENERAL.

Changes and Extra Work: The County may make changes within the scope of work and add extra work. The Engineer describes the changes and extra work, the payment basis, and any time adjustment in a *Change Order*. A *Change Order* is approved when the County signs the *Change Order*. Until the County approves a *Change Order*, continue to perform the work under the Contract unless the Engineer orders you to start the work described in the *Change Order* before its approval. Submit detailed cost data for a unit price adjustment for a bid item if (1) the Engineer requests the data or (2) you request a unit price adjustment resulting from a change of more than 25 percent in the bid item's quantity.

Control of Work:

Attention is directed to Section 4-1.05, "Changes and Extra Work," and applicable portions of Section 5, "Control of Work," Section 7, "Legal Relations and Responsibility to the Public," and Section 8, "Prosecution and Progress," of the Standard Specifications with respect to administration of this contract and the Project.

6.2 OMITTED ITEMS.

The County may, if in its best interest, omit from the Work any Contract Item. Such omission shall not invalidate any other Contract provision or requirement. Should a Contract Item be omitted or otherwise ordered to be non-performed, the Contractor shall be paid for all work performed toward completion of such an item prior to the date of the order to omit such item.

6.3 CONTRACTOR REPRESENTATION.

The County will not recognize any subcontractor on the work. The Contractor shall at all times when work is in progress be represented in person by either a qualified, competent Superintendent or by another designated,

qualified, competent representative who is duly authorized to receive and execute orders of the Engineer. The Superintendent shall be satisfactory to the County and shall not be changed except with the express written consent of the County unless the ceases to be in its employ.

All communications given to the Superintendent or other authorized representative shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. An authorized representative of the Contractor shall be available for emergency telephone communications from the County on a 24-hour, seven days per week basis during the performance of the Work.

6.4 CONTRACTOR PERSONNEL.

The Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ on the work any unfit person or anyone not skilled in the work assigned to him or her. The Contractor shall ensure that all workers have sufficient skill and experience necessary to properly perform the work assigned to them and that workmanship shall be of the best trade practice, regardless of the quality of materials. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform the work satisfactorily. The Contractor shall provide, at all times, sufficient and competent labor to carry on the work properly and ensure completion of each part in accordance with the Project Plans, these General Conditions, the Special Provisions, any QAP, and the approved schedule.

An employee of the Contractor or subcontractor who is deemed by the County to be incompetent, disorderly, or otherwise objectionable shall be promptly removed by the Contractor and not reemployed on the Work.

6.5 METHODS AND EQUIPMENT.

The Contractor shall, at all times, employ sufficient labor and equipment for prosecuting the Work to full completion in the manner and time required by the Contract Documents.

All equipment used on the Work shall be of sufficient size and in such mechanical condition as to meet requirements of the Work and to produce a satisfactory quality of work. Equipment used on any portion of the Work shall be such that no injury to previously-completed work, adjacent property, or existing facilities will result from its use.

When the methods and equipment to be used by the Contractor in accomplishing the Work are not prescribed in the Contract Documents, the Contractor is free to use any methods or equipment that will accomplish the work in conformity with the requirements of the Contract Documents.

6.6 PARTIAL PAYMENTS.

Unless otherwise agreed by the County, no partial payment will be made for any materials on hand which have been furnished but not incorporated into the work.

6.7 FINAL ACCEPTANCE.

Upon due notice from the Contractor of presumptive completion of the entire Project, the Engineer and County will make an inspection. If all construction provided for and contemplated by the Contract is found to be completed in accordance with the Contract Documents, such inspection shall constitute the final inspection. The County shall notify the Contractor in writing of final acceptance as of the date of the final inspection.

If, however, the inspection discloses any work, in whole or in part, as being unsatisfactory, the County will give the Contractor the necessary instructions for correction of same and the Contractor shall immediately comply with and execute such instructions. Upon correction of the work, another inspection will be made which shall constitute

the final inspection, provided the work has been satisfactorily completed. In such event, the County will make the final acceptance and notify the Contractor in writing of this acceptance as of the date of final inspection.

The completion of the contract will be accepted and Notice of Completion recorded by the County only when the entire contract is completed satisfactorily to the County.

6.8 CLAIMS FOR ADJUSTMENT AND DISPUTES.

If for any reason the Contractor deems that it is due additional compensation for work or materials not clearly provided for in the Contract Documents or previously authorized as extra work, the Contractor shall notify the County in writing of its intention to claim such additional compensation 24 hours before beginning the work on which the claim is based. If such notification is not given or the County is not afforded a proper opportunity by the Contractor to keep strict account of actual cost as required, then the Contractor hereby agrees to waive any claim for such additional compensation. Such notice by the Contractor and the fact that the Engineer has kept account of the cost of the work shall not in any way be construed as proving or substantiating the validity of the claim. When the work on which the claim for additional compensation is based has been completed, the Contractor shall, within 14 calendar days, submit its written claim to the County for consideration in accordance with local laws or ordinances. Nothing in this subsection shall be construed as a waiver of the Contractor's right to dispute final payment based on differences in measurements or computations.

Claims falling within the provisions of California Public Contract Code section 9204 shall be processed in accordance with that section.

6.9 FORCE MAJEURE.

Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and
- b) Acts of the federal or State government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

6.10 WARRANTY AND GUARANTEE.

The Contractor warrants to the County that all materials furnished under this Contract shall be new unless otherwise specified and that all Work, including without limitation all materials, will be of good quality, free from faults and defects and in conformance with contract requirements. Any work not so conforming to these standards may be considered defective. The obligations of the Contractor in this subsection shall be in addition to, and not in limitation of, any obligations imposed upon it by those guarantees required by the contract or otherwise prescribed by law.

Neither the recordation of a Notice of Completion, nor the final certification or payment, nor any provision of the Contract or partial or entire use or occupancy of the premises by the County shall constitute an acceptance of the Work not performed in accordance with the Contract or relieve the Contractor of liability with respect to any express warranties or responsibility for faulty materials or workmanship.

The Contractor agrees that all work and materials provided under this contract are guaranteed for a period of one year against defects of any kind or nature and that any defective work or materials resulting from the Contractor's negligence will be repaired or replaced by the Contractor at its own expense immediately upon notification by the County. The Contractor shall furnish a warranty bond in the amount of 10 percent of the contract price as provided for and meeting the requirements specified in the Agreement. The warranty bond shall be furnished and approved prior to final payment and release and shall remain in effect for the duration of the guarantee period to insure the repair or replacement of defective work or materials. The one-year guarantee period shall commence on the day of recordation of the Notice of Completion.

The County will give notice of observed defects with reasonable promptness. The County is authorized to make such repairs and charge the Contractor the actual costs of such necessary labor and material, if, within 14 calendar days after mailing a notice in writing to the Contractor or its agent, the Contractor neglects to make or undertake with due diligence the aforesaid repairs; provided, however, that in the case of an emergency where, in the opinion of the County, delay would cause hazard to health or serious loss or damage, repairs may be made without notice being sent to the Contractor, and the Contractor shall pay the cost thereof.

If after installation and acceptance, the Work provided for under this Contract proves to be unsatisfactory to the County, the County shall have the right to use the Work until it can, without damage to the County, be taken out of service for correction or replacement. Such period of use of the defective Work pending correction or replacement shall in no way decrease the guarantee period.

Nothing in this section shall be construed to limit, relieve or release the Contractor's, subcontractor's, and supplier's liability to the County for damages sustained as the result of latent defects in the Work caused by the negligence of their respective agents, employees or subcontractors.

SECTION 7: TERMINATION

7.1 TERMINATION BY CONTRACTOR.

The Contractor shall have the right to terminate the Contract only upon the occurrence of one of the following:

1. Provided that County has not commenced reasonable action to remove any order of a court within the 90 day period, the Work is stopped for 90 consecutive days, through no act or fault of Contractor, any Subcontractor, or any employee or agent of Contractor or any Subcontractor, due to an issuance of an order of a court or other public authority having jurisdiction or due to an act of government, such as a declaration of a national emergency making material unavailable.
2. The County fails to perform any material obligation under the Contract Documents and fails to cure such default within 30 days, or County has not commenced to cure such default within 30 days where such cure will require a reasonable period beyond 30 days and diligently prosecutes the same to completion, after receipt of notice from Contractor stating the nature of such default(s).

Upon occurrence of one of the events listed above, the Contractor may, upon 10 days additional notice to County and Engineer, and provided that the condition giving rise to Contractor's right to terminate is continuing, terminate the Contract.

Upon termination by Contractor, County will pay to Contractor the sum determined by Section 7.4 of these General Conditions. Such payment will be the sole and exclusive remedy to which Contractor is entitled in the event of termination of the Contract by Contractor pursuant to this section; and Contractor will be entitled to no other compensation or damages and expressly waives the same.

7.2 TERMINATION BY COUNTY FOR CAUSE.

The County will have the right to terminate the Contract for cause or the Contractor's right to perform the Contract for cause at any time after the occurrence of any of the following events:

1. Contractor becomes insolvent or files for relief under the bankruptcy laws of the United States.
2. Contractor makes a general assignment for the benefit of its creditors or fails to pay its debts as the same become due.
3. A receiver is appointed to take charge of Contractor's property.
4. The commencement or completion of any Work activity on the critical path is more than 6 days behind the date set forth in the Contract Schedule for such Work activity as a result of an Unexcusable Delay.
5. Contractor abandons the Work.

Upon the occurrence of any of the following events and subject to the clause entitled "Force Majeure", the County will have the right to terminate the Contract for cause or the Contractor's right to perform the Contract for cause if the Contractor fails to promptly commence to cure such default and diligently prosecute such cure within 5 days after notice from the County, or within such longer period of time as is reasonably necessary to complete such cure:

1. Contractor persistently or repeatedly refuses or fails to supply skilled supervisory personnel, an adequate number of properly skilled workers, proper materials, or necessary equipment to prosecute the Work in accordance with the Contract Documents.
2. Contractor fails to make prompt payment of amounts properly due subcontractors after receiving payment from County.
3. Contractor fails to follow applicable legal requirements.
4. Contractor persistently or materially fails to execute the Work in accordance with the Contract Documents.
5. Contractor is in default of any other material obligation under the Contract Documents.
6. Contractor persistently or materially fails to comply with applicable safety requirements.

Upon any of the occurrences referred to above the County may, at its election and by notice to the Contractor, terminate the Contract and take possession of the Project site and all materials, supplies, equipment, tools, and construction equipment and machinery thereon owned by Contractor; accept the assignment of any or all of the subcontracts; and then complete the Work by any method County may deem expedient. If requested by County, Contractor shall remove any part or all of Contractor's materials, supplies, equipment, tools, and construction equipment and machinery from the Project site within 7 days of such request; and if Contractor fails to do so, County may remove or store, and after 90 days sell, any of the same at Contractor's expense.

If the Contract or Contractor's right to perform is terminated by the County as provided in this section, the Contractor shall not be entitled to receive any further payment until the expiration of 35 days after Final Completion and acceptance of all Work by County.

If the unpaid balance of the Contract Sum exceeds the cost of completing the Work, including all additional costs and expenses made necessary thereby, including costs for County staff time, plus all losses sustained, including any liquidated damages provided under the Contract Documents, such excess shall be paid to Contractor. If such

costs, expenses, losses, and liquidated damages exceed the unpaid balance of the Contract Sum, Contractor shall pay such excess to County.

No termination or action taken by the County after termination shall prejudice any other rights or remedies of the County provided by law or by the Contract Documents upon such termination; and the County may proceed against the Contractor to recover all losses suffered by County.

Termination of the Contract does not relieve the surety of its obligation for any just claims arising out of the work performed.

7.3 TERMINATION BY COUNTY FOR CONVENIENCE.

The County may, at its option, terminate this Contract, in whole or from time to time in part, at any time by giving notice to Contractor. Upon such termination, the Contractor agrees to waive any claims for damages, including loss of anticipated profits, on account thereof; and, as the sole right and remedy of the Contractor, the County shall pay the Contractor in accordance with this Section, below.

Upon receipt of notice of termination under this Section 7.3, Contractor shall, unless the notice directs otherwise, do the following:

1. Immediately discontinue the Work to the extent specified in the notice.
2. Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary for completion of such portion of the Work as is not discontinued.
3. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent they relate to the performance of the discontinued portion of the Work.
4. Thereafter, do only such Work as may be necessary to preserve and protect Work already in progress and to protect materials, plants, and equipment on the Project site or in transit thereto.

Upon such termination, the obligations of the Contract shall be as set forth in section 7.4 . Termination of the Contract does not relieve the surety of its obligation for any just claims arising out of the work performed.

7.4 PAYMENT ADJUSTMENT FOR TERMINATION.

Section 8-1.14E, "Payment Adjustment for Termination," of the Standard Specifications is replaced in its entirety by the following language:

"Upon such termination, the County shall pay to Contractor the sum of the following:

1. The amount of the Contract Sum allocable to the portion of the Work properly performed by Contractor as of the date of termination, less sums previously paid to Contractor.
2. Plus previously unpaid costs of any items delivered to the Project Site that were fabricated for subsequent incorporation in the Work.
3. Plus any proven losses with respect to materials and equipment directly resulting from such termination.
4. Plus reasonable demobilization costs.
5. Plus reasonable costs of preparing a statement of the aforesaid costs, expenses, and losses in connection with such termination.

The above payment shall be the sole and exclusive remedy to which the Contractor is entitled in the event of termination of the Contract by the County pursuant to Sections 7.2 or 7.3; and the Contractor will be entitled to no other compensation or damages and expressly waives same.”

SECTION 8. MATERIALS

8.1 MANUFACTURER’S SPECIFICATIONS AND RECOMMENDATIONS.

Wherever, in the Contract Documents, a particular brand or make of item is specified, the Contractor shall comply strictly with the specifications and recommendations of that manufacturer as to the installation and/or application of that particular item. This requirement shall be met with respect to the specifications and recommendations of the manufacturer of an “or equal” item approved by the Engineer and installed or applied by Contractor.

8.2 REFERENCE TO SPECIFICATIONS AND TRADE NAMES.

Where American Society for Testing Materials (ASTM) or other specifications or standards are mentioned, it shall be understood that the materials or methods mentioned therewith shall conform to all requirements of the same that are in effect on the date of bid submission.

Where the trade name of a product or the name of a product or the name of a manufacturer appears, it shall be understood to specify the product so identified or its “Approved Equal.” The words “Or Equal” or “Approved Equal” shall mean equal in the opinion of, and approval by, the Engineer. Any substitutions for products or manufacturers mentioned in the Contract Documents shall be submitted by the Contractor to the County for approval within 14 calendar days following the Award of Contract or as otherwise permitted in writing by the Engineer.

8.3 STORAGE OF MATERIALS.

Materials shall be stored as to assure the preservation of their quality and fitness for the Work. Stored materials, even if approved before storage, may again be inspected prior to their use in the Work. Stored materials shall be located so as to facilitate their prompt inspection. The Contractor shall coordinate the storage of all materials with the County and the location of the Contractor’s plant and parked equipment or vehicles shall be as directed by the County. Private property shall not be used for storage purposes without written permission of the owner or lessee of the property. The Contractor shall make all arrangements and bear all expenses for the storage of materials on private property. Upon request, the Contractor shall furnish the County a copy of the owner’s or lessee’s permission. All storage sites on private or County property shall be restored to their original condition by the Contractor at its entire expense, except as otherwise agreed to in writing by the County.

SECTION 9. CONSTRUCTION DETAILS

9.1 ORDER OF WORK.

The location where Project improvements are to be constructed will be exposed to public traffic. The Contractor shall conduct operations so that conditions do not exist that would create a nuisance, hazard, or other damage. Appropriate safety measures, warning devices and protective devices shall be implemented to protect all workers, the traveling public, and the work.

9.2 SANITARY, HEALTH, AND SAFETY PROVISIONS.

The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of its employees as may be necessary to comply with the requirements of the State and local Health Department, or of other bodies or tribunals having jurisdiction.

Attention is directed to federal, State, and local laws, rules and regulations concerning construction safety and health standards. The Contractor shall not require any worker to work in surroundings or under conditions that are unsanitary, hazardous, or dangerous to that worker's health or safety.

The Engineer and County shall have **no** responsibility for job site safety. The Contractor and his subcontractors must execute their daily work in accordance with the latest edition of the Occupational Safety and Health Administration (OSHA).

9.3 CONSTRUCTION SITE NUISANCE.

The Contractor shall maintain preventative controls of blowing dust, noise, and other nuisances from construction work. No dogs or other animals are allowed within the project limits.

9.4 PUBLIC CONVENIENCE AND SAFETY.

The Contractor shall provide temporary protective fencing, barriers, and/or covering over any open trenching or excavation arising from the execution of this Contract, to keep out unauthorized persons, at no additional cost to the County. The cost for providing signage, barriers, or any other items associated with public convenience and safety shall be the sole responsibility of the Contractor and no additional payment will be allowed therefor.

Contractor shall comply with OSHA regulations applicable to Contractor regarding necessary safety equipment and procedures. Contractor shall comply with safety instructions issued by County. Contractor's personnel shall wear hard hats and safety vests at all times while working at the project site. Pursuant to the authority contained in Section 591 of the Vehicle Code, County has determined that such areas are within the limits of the project and are open to public traffic. Contractor shall comply with all applicable requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Contractor shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles. All subcontracts entered into by Contractor shall contain the above provisions.

9.5 HIGHWAY CONSTRUCTION EQUIPMENT.

Attention is directed to Section 591 of the Vehicle Code and Sections 7-1.01D, "Vehicle Code," and 5-1.37B, "Load Limits," of the Standard Specifications. The Contractor shall take all necessary precautions for safe operation of its equipment and the protection of the public from injury and damage from such equipment.

9.6 PERMITS.

The Contractor shall give all notices as required and comply with all laws, ordinances, rules and regulations bearing on the conduct of the Work as drawn and specified. If the Contractor observes that the Project Plans and Technical Specifications are at variance therewith, the Contractor shall notify the County promptly in writing, of any necessary changes in the work. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the County, the Contractor shall bear all costs arising therefrom. Copies of permits shall be furnished to the County.

9.7 CONSTRUCTION LAYOUT AND STAKES.

The Contractor shall engage the services of a State of California licensed Professional Land Surveyor to perform construction layout. All staking on the project shall be performed by, or under, the direct supervision of a

Professional Land Surveyor. The Contractor will be responsible for establishing and maintaining all survey controls and other layout that may be required for construction of the work.

9.8 TESTING AND INSPECTIONS.

Aside from materials testing and certifications required from the Contractor in the Quality Assurance Program (QAP), Technical Specifications, Standard Specifications, Special Provisions (if applicable) and/or these General Conditions, the County will provide testing services for installed work. Inspections shall be performed either: (1) as directed by the Engineer; or (2) pursuant to a written Inspection plan provided by County.

9.9 CONTRACTOR QUALITY CONTROL.

The Contractor shall be responsible for the quality of all materials entering into the work and of the work performed. The County and Engineer shall establish, maintain, and modify if needed, a quality control system that will provide assurance that materials and completed work conform to contract requirements. Where applicable, a copy of the QAP, which establishes testing frequency for materials incorporated into the work and criteria used to monitor the Contractor's conformance with Project Plans and Technical Specifications, will be included in the Project Manual.

9.10 INSPECTION OF THE WORK.

All materials and each part or detail of the work shall be subject to inspection by the Engineer. The Engineer shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

If the Engineer requests it, the Contractor, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the specifications. Should the work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as extra work; but should the work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be at the Contractor's expense.

Any work done or materials used without supervision or inspection by an authorized representative of the County may be ordered removed and replaced at the Contractor's expense unless the County's representative failed to inspect after having been given reasonable notice in writing that the work was to be performed.

9.11 RETEST OF WORK.

When, as provided for in the Contract Documents, the County or Contractor performs sampling and test of the work and the tests show a failure to meet the requirements of the Special Provisions, the QAP, Technical Specifications, or Standard Specifications, the expense of re-testing, after re-working or substitution by the Contractor, will be at the expense of the Contractor, and such costs will be deducted from any amounts due to the Contractor.

9.12 MAINTENANCE DURING CONSTRUCTION.

The Contractor shall maintain the Work during construction and until the Work is accepted. This maintenance shall constitute continuous and effective Work prosecuted day by day, with adequate equipment and forces so that the work is maintained in satisfactory condition at all times. All costs of maintenance work before the project is accepted shall be included in the unit prices bid on the various Contract Items, and the Contractor will not be paid an additional amount for such work.

Should the Contractor at any time fail to maintain the work as provided herein, the Engineer shall immediately notify the Contractor of such noncompliance. Such notification shall specify a reasonable time within which the Contractor shall be required to remedy such unsatisfactory maintenance condition. The time specified will give due consideration to the exigency that exists. Should the Contractor fail to respond to the Engineer's notification, the Engineer may suspend any work necessary for the County to correct such unsatisfactory maintenance condition, depending on the exigency that exists. Any maintenance cost incurred by the County shall be deducted from monies due or to become due the Contractor.

SECTION 10. OPERATIONS AND SAFETY

10.1 TEMPORARY CONTRACTOR FACILITIES.

At a minimum, the Contractor shall provide chemical toilets for use by contractor and subcontractor employees. Chemical toilets shall be regularly serviced to maintain a clean and odorless facility.

The Contractor's storage area shall be determined at the pre-construction conference. The Contractor shall secure at his own expense any area required for storage of equipment or materials, or for other supplies.

The County will not be responsible for providing telephone, electrical, water, sewer, or any other temporary utility for use by the Contractor.

The Contractor shall remove all equipment, materials, and rubbish from the work areas which it occupies and shall leave the areas in a clean, safe and presentable condition.

10.2 BORROW, DISPOSAL AND MATERIAL SITES.

The operation of any borrow or disposal sites used by the Contractor to produce or dispose of materials for this project shall comply with the requirements of the contract documents. All provisions for water pollution, air pollution, and sound control that apply within the limits of the contract shall apply to all borrow or disposal sites utilized by the Contractor.

Full compensation for complying with the requirements for borrow, disposal and material sites in this section shall be considered as included in the contract prices paid for the items of work which require the use of the sites and no additional compensation will be allowed therefor.

10.3 WATER SUPPLY.

The Contractor is responsible for making its own arrangements to obtain an adequate supply of water required for the proper construction of this project in accordance with the contract documents. The Contractor shall be responsible for all costs associated with obtaining construction water. If the Contractor uses non-potable water on the project, the sources and discharge of non-potable water shall meet the California Department of Health Services water reclamation criteria and the requirements of the Lahontan Regional Water Quality Control Board.

If used, non-potable water shall not be conveyed in tanks or drain pipes which will be used to convey potable water. There shall be no connection between non-potable water supplies and potable water supplies. Non-potable water supply, tanks, pipes, and other conveyances of non-potable water shall be labeled, "NON-POTABLE WATER—DO NOT DRINK."

Full compensation for developing a water supply, loading, and transporting water, labeling as specified, and dust control and moisture-conditioning on the project site shall be considered included in the prices paid for the various Contract Items of work involving the use of water and no additional compensation will be allowed therefor.

The Contractor shall, whenever possible and not in conflict with the above requirements, minimize the use of water during construction of the project. Watering equipment shall be kept in good working order; water leaks shall be repaired promptly; and washing of equipment, except when necessary for safety or for the protection of equipment, shall be discouraged.

When ordered by the Engineer, a dust palliative conforming to the provisions of Section 18, "Dust Palliative," of the Standard Specifications shall be used to control dust on this project. No direct payment shall be made for dust palliative. Payment for dust palliative shall be included in the cost of other work.

10.4 EXISTING FACILITIES.

The Contractor shall be responsible for protecting all existing structures and facilities from damage as a result of the Contractor's activities. Any damage resulting from the Contractor's operations shall be repaired immediately, at the Contractor's expense.

SECTION 11. PROGRESS MEETINGS

11.1 WEEKLY PROGRESS MEETINGS.

The Engineer will conduct Progress Meetings at regularly scheduled times convenient for all parties involved. Progress Meetings are in addition to specific meetings held for other purposes, such as coordination meetings. Discussions will address administrative and technical issues of concern, determining resolutions, and development of deadlines for resolution within allowable time frames.

11.2 ATTENDEES.

As may be required by the Engineer, in addition to representatives of Mono County and the Contractor, each subcontractor, supplier or other entity concerned with current progress or involved in planning, coordination or performance of future activities shall be represented at these meetings by individuals directly involved with the Contract and authorized to conclude matters relating to progress.

SECTION 14. WORK SCHEDULE AND LIQUIDATED DAMAGES

14.1 BEGINNING OF WORK AND TIME OF COMPLETION.

The Contractor shall begin work on the date provided in the Notice to Proceed issued by the Public Works Director or his designee. The work shall be diligently prosecuted to completion before the expiration of 30 WORKING DAYS beginning on the date set forth in the Notice to Proceed.

14.2 LIQUIDATED DAMAGES.

The County expects the Contractor to perform its responsibilities and tasks as specified in these Contract Documents. The expectation is reasonable, within normally acceptable business practices, and in the best interest of the County and its residents. The Contractor acknowledges that the County, in entering this Agreement, has considered and relied on the Contractor's representations as to its ability and commitment to quality and timeliness of service; that the provision of reliable and timely services is of utmost importance to the County; and that the

County will suffer damages if the Contractor fails to fulfill its obligations under the Contract. The Contractor acknowledges that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages that the County will suffer and that liquidated or actual damages attach and will be payable from any funds due to the Contractor.

The liquidated damages described below, represent the projected financial loss and expenditures that may occur as a result of Contractor non-performance, including financial loss as a result of project delays. The County and Contractor agree that the liquidated damages provided for herein do not represent a penalty; rather, the liquidated damages represent a good faith effort by the County and Contractor to establish a reasonable estimate of the damages that will be incurred by the County in the circumstances described, considering all of the circumstances existing on the date of contract award, including the relationship of the sums to the range of harm to the County that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or inconvenient.

This provision for liquidated damages for delay shall in no manner affect the County's right to terminate the Contract or the Contractor's right to perform the Contract as provided elsewhere in the Contract Documents. The County's exercise of the right to terminate shall not release the Contractor from its obligation to pay said liquidated damages in the amount set out below.

The Contractor shall pay to the County the sum of \$1,200.00 per day, as liquidated damages, for each and every calendar day's delay in finishing the work in excess of the number of working days prescribed above. This sum is based on the recommended calculation located in the Caltrans Local Assistance Procedures Manual at page 12-20 available at http://www.dot.ca.gov/hq/LocalPrograms/lam/prog_p/lapmcomplete-2-2012.pdf.

14.3 BREACH.

If conditions of non-performance justifying the imposition of liquidated damages continue, they may amount to a material breach for which the County may pursue recovery of actual losses resulting from the Contractor's failure to perform, and the County expressly reserves this right. The County shall notify the Contractor in writing, for any default specified herein, and such liquidated damages shall be paid by the Contractor within thirty (30) calendar days of the County's notice. The Contractor's failure to pay the assessed liquidated damages within the designated time frame may be deemed by the County as a breach of contract.

SECTION 15. PROJECT CLOSEOUT

15.1 "As-Built" Drawings.

The Contractor shall maintain a set of accurate "as-built" drawings during the course of the project. Any project work completed that varies from the "as-built" drawings as issued shall be legibly noted on the "as-built" drawings in red ink. Both text and line work shall be used to reflect the changes. The "as-built" drawings shall be clearly labeled as "as-built" drawings and each sheet signed and dated by the Contractor, certifying that the information provided is accurate. At the completion of the project and prior to final payment, the "as-built" drawings shall be delivered to the County and, upon receipt, shall be maintained as the property of the County.

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EXHIBIT 2

**AGREEMENT BETWEEN THE COUNTY OF MONO AND
[CONTRACTOR] FOR THE PROVISION OF
PAVEMENT RECONSTRUCTION SERVICES**

PREVAILING WAGES AS OF: 8/1/2023

A. DETERMINATION

The services and work to be provided by Contractor under this Agreement constitute a public work within the meaning of California Labor Code Sections 1720 and 1720.3. Accordingly, and as required by Section 1771 of the California Labor Code, Contractor and any subcontractor under him, shall pay not less than the general prevailing rate of per diem wages, and not less than the general prevailing rate of per diem wages for holiday and overtime work, to all workers employed in the execution of those services and work requested by the County as described in Attachment A of this Agreement that constitute a public work. California Labor Code Section 1771 is incorporated herein by this reference, and a copy of that Section is included at the end of this Exhibit.

B. PREVAILING WAGE RATE

The general prevailing rate of per diem wages applicable to each class of worker employed in the execution of those services and work that constitute a public work under this Agreement has been determined by the Director of the California Department of Industrial Relations (hereinafter referred to as "Director"). Copies of the Director's determination are on file at the Mono County Department of Public Works office, 74 North School Street, Bridgeport, California, and are available to any interested party upon request.

C. APPRENTICES

Pursuant to Section 1777.5 of the California Labor Code, properly registered apprentices performing services and work that constitute a public work, if any, shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he or she is employed, and shall be employed only at the work of the craft or trade to which he or she is registered. California Labor Code Section 1777.5 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

D. PENALTY FOR NON-PAYMENT OF PREVAILING WAGES

Pursuant to Section 1775 of the California Labor Code, Contractor, and any subcontractor under him, shall, as a penalty to the County, forfeit not more than fifty dollars (\$50.00) for each calendar day, or portion thereof, for each worker paid less than the general rate of per diem wages for the performance of services and work that constitute a public work, as determined by the Director, for the work or craft for which the worker is employed in the performance of services and work provided under this Agreement that constitute a public work, except as provided by subdivision (b) of Section 1775 of the California Labor Code. California Labor Code Section 1775 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

E. PAYROLL RECORDS

Pursuant to Section 1776 of the California Labor Code, Contractor, and any subcontractor under him, shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the performance of the services and work requested by the County, as described in the Scope of Work (Attachment A) of this Agreement.

F. INSPECTION OF PAYROLL RECORDS

Contractor, and any subcontractor under him, shall comply with each of the additional requirements set forth in

California Labor Code Section 1776, regarding: (1) the form of records; (2) the provision of records upon request to the County, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the California Department of Industrial Relations; and, (3) the inspection of records by the public. California Labor Code Section 1776 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

G. POST OF PREVAILING WAGES AT JOB SITE

Pursuant to California Labor Code Section 1773.2, Contractor shall post at each job site in connection with this Agreement a copy of the Director's determination of the general prevailing rate of per diem wages for each classification of worker required in the execution of those services and work requested by the County, as described in the Scope of Work (Attachment A) of this Agreement that constitute a public work.

H. HOURS

Pursuant to Section 1810 of the California Labor Code, the time of service of any worker employed by Contractor, or by any subcontractor under him, in the performance of services and work requested by the County, as described in the Scope of Work (Attachment A) of this Agreement that constitute a public work, is limited and restricted to eight hours during any one calendar day, and 40 hours during any one calendar week, except as otherwise provided by the California Labor Code.

I. OVERTIME

Pursuant to California Labor Code Section 1815, the performance of services and work, as described in the Scope of Work (Attachment A) of this Agreement that constitute a public work by employees of Contractor, or employees of any subcontractor under him, in excess of eight hours per calendar day, and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight hours per calendar day at not less than one and one-half (1½) times the basic rate of pay. California Labor Code Section 1815 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

J. RECORDS OF HOURS

Contractor, and any subcontractors under him, shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him or her in connection with the performance of the services and work requested by the County that constitute a public work, as described in the Scope of Work (Attachment A) of this Agreement. The record shall be kept open at all reasonable hours to the inspection of the County and to the Division of Labor Standards Enforcement as required by Labor Code Section 1812.

K. PENALTY FOR VIOLATION OF WORK HOURS

Pursuant to California Labor Code Section 1813, Contractor, and any subcontractors under him, shall, as a penalty to the County, forfeit twenty-five dollars (\$25.00) for each worker employed by the respective contractor or subcontractor in the execution of the services and work requested by the County that constitute a public work, as described in the Scope of Work (Attachment A) of this Agreement, for each calendar day during which the worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of the California Labor Code. California Labor Code Section 1813 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

L. REGISTRATION WITH DIR AND COMPLIANCE MONITORING

Under Labor Code section 1725.5, no contractor or subcontractor may be listed in a bid proposal (with limited exceptions stated in Labor Code section 1771.1) or awarded a contract for a public works project unless registered with the Department of Industrial Relations. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

CALIFORNIA LABOR CODE:
Sections 1771, 1775, 1776, 1777.5, 1813, and 1815

§ 1771. Payment of general prevailing rate

Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

§ 1775. Penalties for violations

- (a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.
- (2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:
- (i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.
 - (ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.
- (B) (i) The penalty may not be less than ten dollars (\$10) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.
- (ii) The penalty may not be less than twenty dollars (\$20) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.
- (iii) The penalty may not be less than thirty dollars (\$30) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.
- (C) When the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.
- (D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.
- (E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid

to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

- (b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:
 - (1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - (2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.
 - (3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.
 - (4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.
- (c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

§ 1776. Payroll records; retention; noncompliance; penalties; rules and regulations

(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- (1) The information contained in the payroll record is true and correct.
- (2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and furnished directly to the Labor Commissioner in accordance with subdivision (a) of Section 1771.4, and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

- (1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
- (2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.
- (3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the

entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f)

(1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

§ 1777.5. Employment of apprentices; wages; standards; number; apprenticeable craft or trade; exemptions; contributions

- (a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.
- (b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.
- (c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:
- (1) The apprenticeship standards and apprentice agreements under which he or she is training.
 - (2) The rules and regulations of the California Apprenticeship Council.
- (d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).
- (e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.
- (f) The apprenticeship program that can supply apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.
- (g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship

program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

- (h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Chief of the Division of Apprenticeship Standards, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.
- (i) A contractor covered by this section that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).
- (j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Chief of the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.
- (k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:
 - (1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.
 - (2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.
 - (3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.
 - (4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.
- (l) When an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.
- (m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

- (2) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Division of Apprenticeship Standards for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:
 - (A) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.
 - (B) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and geographic area for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices registered in each program.
 - (C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray the future expenses of the Division of Apprenticeship Standards.
- (3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the Apprenticeship Training Contribution Fund is hereby continuously appropriated for the purpose of carrying out this subdivision and to pay the expenses of the Division of Apprenticeship Standards.
- (n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.
- (o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).
- (p) All decisions of an apprenticeship program under this section are subject to Section 3081.

§ 1813. Forfeiture for violations; contract stipulation; report of violations

The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

§ 1815. Overtime

Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1-1/2 times the basic rate of pay.

EXHIBIT 3

AGREEMENT BETWEEN COUNTY OF MONO AND [CONTRACTOR] FOR THE PROVISION OF PAVEMENT RECONSTRUCTION SERVICES

BOND REQUIREMENTS

Contractor shall furnish and maintain during the entire term of this Agreement or, if work or services do not begin as of the effective date of this Agreement, commencing at such other time as may be authorized in writing by the Public Works Director or his designee after consultation with the County Risk Manager, the following bonds: 1) a labor and materials payment bond in an amount equal to one hundred percent (100%) of the contract price; 2) a faithful performance bond in an amount equal to one hundred percent (100%) of the contract price; and, 3) upon project completion and acceptance by the County, a one-year warranty bond in an amount equal to ten percent (10%) of the contract price. The bonds shall comply with the requirements of California Civil Code Section 9554 and must be issued by an "Admitted Surety Insurer." For purposes of this Agreement, an Admitted Surety Insurer means a corporate insurer or inter-insurance exchange to which the California State Insurance Commissioner has issued a certificate of authority to transact surety insurance in California, as defined in Section 105 of the California Insurance Code. Bonds shall be in a form acceptable to the Mono County Counsel. The Attorney-in-Fact (resident agent) who executes the bonds on behalf of the surety company must attach a copy of his Power of Attorney as evidence of his authority. A notary shall acknowledge this Power of Attorney as of the date of the execution of the surety bond that it covers. If any surety becomes unacceptable to the County or fails to furnish reports as to its financial condition as requested by the County, Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the County and of persons supplying labor or materials in the prosecution of the work contemplated by this Agreement. Payment and Performance Bonds are released by the County 35 days from the date of filing of the Notice of Completion. Sample bond forms are included on the following pages.

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SAMPLE PERFORMANCE BOND

WHEREAS, the County of Mono, acting by and through the Department of Public Works, has awarded to Contractor [Click here to enter text.](#), hereafter designated as the "Contractor", a contract for the work described as follows:

[Click here to enter text.](#)

AND WHEREAS, the Contractor is required to furnish a bond in connection with said contract, guaranteeing the faithful performance thereof:

NOW, THEREFORE, we the undersigned Contractor and Surety are held firmly bound to the County of Mono in the sum of \$[Click here to enter text.](#) dollars (\$[Click here to enter text.](#)), to be paid to said County or its certain attorney, its successors and assigns: for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bound Contractor, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the foregoing contract and any alteration thereof made as therein provided, on his or their part to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning, and shall indemnify and save harmless the County of Mono, its officers and agents, as therein stipulated, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and virtue.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by County in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS WHEREOF, We have hereunto set our hands and seals on this _____ day of _____, 20__.

Correspondence or claims relating to this bond should be sent to the surety at the following address:

Contractor

Name of Surety (SEAL)

By : Attorney-in-Fact

NOTE: Signatures of those executing for the surety must be properly acknowledged.

APPROVED AS TO FORM:

Mono County Counsel

SAMPLE PAYMENT BOND

WHEREAS, The County of Mono, acting by and through the Department of Public Works, hereafter referred to as "Obligee", has awarded to Contractor [Click here to enter text.](#), hereafter designated as the "Principal", a contract for the work described as follows:

[Click here to enter text.](#)

AND WHEREAS, said Principal is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics, materialmen and other persons as provided by law.

NOW, THEREFORE, we the undersigned Principal and Surety are bound unto the Obligee in the sum of [Click here to enter text.](#)dollars (\$[Click here to enter text.](#)), for which payment, we bind ourselves, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH,

That if said Principal or its subcontractors shall fail to pay any of the persons named in Civil Code Section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by such claimant, or any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal and his subcontractors under Section 13020 of the Unemployment Insurance Code, with respect to such work and labor, that the surety herein will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond, the surety will pay a reasonable attorney's fee to be fixed by the court.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 9100 as to give a right of action to such persons or their assigns in any suit brought upon this bond.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

Dated: _____, 20 ____

Correspondence or claims relating to this bond should be sent to the surety at the following address:

Principal

Surety (SEAL)

By : Attorney-in-Fact

NOTE: Signatures of those executing for the surety must be properly acknowledged.

APPROVED AS TO FORM:

Mono County Counsel

**COUNTY OF MONO
DEPARTMENT OF PUBLIC WORKS
WARRANTY BOND**

KNOW ALL BY THESE PRESENT that we Click here to enter text., the Contractor in the contract hereto annexed (the “Contract”), as principal, and, Click here to enter text., the Surety, are held and firmly bound unto the County of Mono (“Owner”) in the sum of Click here to enter text. lawful money of the United States, for which payment, well and truly be made, we bind ourselves jointly and severally, firmly by these present.

Section 1. During the Term of the Bond, the Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to Owner for the Contractor’s warranty obligation: that if the Contractor, its successors and assigns, or its subcontractor, fails to maintain and remedy in good workmanlike manner the work of Click here to enter text. such that it is free from defects in the materials and workmanship for a period of one year commencing on Click here to enter text. and shall indemnify and hold harmless Owner, its officers and agents, as stipulated in the contract, said Surety will pay for the same in an amount not to exceed the sum hereinabove set forth, and also in case suit is brought upon this bond, a reasonable attorney’s fee to be fixed by the court.

Section 2. If the Contractor satisfies its warranty obligations pursuant to the Contract, the Surety and the Contractor shall have no obligation under this Bond. It is understood and agreed that in no event shall the Surety’s obligations under this Bond extend to warranties provided by the Contractor or subcontractor’s suppliers and manufacturers.

Section 3. If there is no Owner Default under the Construction Contract, the Surety’s obligation under this Bond shall arise after:

- a. the Owner first provides notice to the Contractor and the Surety during the Term of the Bond of the Owner’s intent to declare a Contractor Default;
- b. the Contractor fails to remedy the Contractor Default within a reasonable amount of time of such notice; and
- c. the Owner declares a Contractor Default and notifies the Surety.

Section 4. Failure on the part of the Owner to comply with the notice requirement in Section 3 shall not constitute a failure to comply with a condition precedent to the Surety’s obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

Section 5. When the Owner has satisfied the conditions of Section 3, the Surety shall promptly, under reservation of rights, and at the Surety’s expense, remedy the Contractor’s Default. The Surety may, with the consent of the Owner, arrange for the Contractor to remedy the Contractor’s Default.

Section 6. If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner.

Section 7. The responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. The Surety is obligated, without modification or qualification, for the responsibilities of the Contractor for correction of the defective work as set forth in the Construction Contract, and additional legal and design professional costs resulting from the Contractor’s Default or resulting from the actions or failure to act of the Surety under Section 5.

Section 8. The Owner may request an extension of the Term of this Bond. The Surety, at its sole option, may extend the Term of this Bond by continuation certificate or rider setting forth the new expiration date.

- a. If the surety extends the Term of this Bond, the Bond shall be considered one continuous bond.
- b. If the Surety decides not to extend the Term of this Bond, then the Surety shall notify the Owner in writing third (30) days prior to the end of the current term of this Bond at the address indicated in this Bond.
- c. Neither the Surety’s failure to extend the Term of this Bond nor the Contractor’s failure to provide a replacement bond or other acceptable security shall be considered a breach or default by the Surety or Contractor on this Bond, nor serve as a basis for a claim or demand on this Bond.

Section 9. The Surety’s total liability under this Bond is limited to the Amount of this Bond indicated on page 1 of this Bond, regardless of whether the Term of this Bond is extended, the length of time this Bond remains in force, and the number of premiums that shall be payable or paid.

Section 10. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

Section 11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work of the Contractor required by the Contract is located and shall be instituted within two years after a declaration of Contractor Default. If the provisions of this Section are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

Section 12. Notice to the Surety, the Owner, or the Contractor shall be in writing and mailed or delivered to the address shown beneath the signatures on this Bond.

Section 13. Provisions in this Bond that conflict with applicable statutory or other legal requirements shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein.

Section 14. Definitions:

- a. Contract. The Agreement between the Owner and Contractor identified in the preamble to this Bond and in the signature page, including all Contract Documents and changes made to the agreement and the Contract Documents.
- b. Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with the warranties required under the Contract.
- c. Owner Default. Failure of the Owner, which has not been remedied or waived, to perform or otherwise comply with the other material terms of the Contract.
- d. Contract Documents. All the documents that comprise the Contract.
- e. Surety. The company or companies lawfully authorized to issue surety bonds in the jurisdiction where the project is located.

SIGNED, SEALED, AND DATED: _____, 20__

CONTRACTOR
 Company (seal)
 Signature: _____
 Name and Title: _____
 Address: _____

SURETY
 Company (seal)
 Signature: _____
 Name and Title: _____
 Address: _____

OWNER
 Mono County (seal)
 Signature: _____
 Name and Title: _____
 Address: _____

APPROVED AS TO FORM

 Mono County Counsel

EXHIBIT 4

AGREEMENT BETWEEN THE COUNTY OF MONO AND [CONTRACTOR] FOR THE PROVISION OF PAVEMENT RECONSTRUCTION SERVICES

INVOICING, PAYMENT AND RETENTION

3.E. (1). Invoicing and payment. Contractor shall submit to the County, not more than once per month, a payment request in the form of an itemized statement of all services and work described in the Scope of Work (Attachment A) and Contract Documents, which were done at the County's request. The statement to be submitted will cover the period from the first day of the preceding month through and including the last day of the preceding month. Alternatively, Contractor may submit a single request for payment at the conclusion of the work. All statements submitted in request for payment should identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Invoices shall be informative and concise regarding work performed during that billing period. If this box is checked, then invoicing shall be made in the format and according to the schedule and payment terms set forth in the Application and Certificate for Payment set forth on the following two pages.

The progress of work shall initially be determined by Contractor, but must then be approved in writing by the County. Additionally, the making of one or more progress payments shall not be construed as approval of the work performed by the Contractor. Should Contractor submit an improper payment request, the County shall, as soon as practicable, return the request to Contractor accompanied by a document setting forth the reasons why the payment request is not proper. Should the County determine the services or work have not been completed or performed as called for in the Scope of Work (Attachment A) and/or the Contract Documents and/or should Contractor submit an improper payment request, then County shall withhold payment of any disputed amount, plus those amounts authorized by Public Contract Code section 7107, until the services and work are satisfactorily completed or performed and/or the payment request is corrected and resubmitted.

Final payment (excluding retention) for work completed by the Completion Date specified in the Notice of Completion, shall be made within 35 days from the date that County records the Notice of Completion.

3.E.(2). Retention. In accordance with Sections 20104.50 and 9203 of the Public Contract Code, County shall retain 5% of each progress payment until the project is completed unless, at any time after 50 percent of the work has been completed, the Board of Supervisors finds that satisfactory progress is being made, in which case County may make any of the remaining progress payments in full for actual work completed. In accordance with Section 22300 of the Public Contract Code, Contractor may substitute securities for any moneys withheld by the County to ensure performance under this Agreement or request the County to make payments of the retention earnings directly to an escrow agent at Contractor's expense.

Retention for work completed by the Completion Date will be released within 60 days of the date the County records the Notice of Completion.

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EXHIBIT 9

AGREEMENT BETWEEN THE COUNTY OF MONO AND [CONTRACTOR] FOR THE PERFORMANCE OF PAVEMENT RECONSTRUCTION SERVICES

ADDITIONAL CONTRACT PROVISIONS APPLICABLE TO FEDERAL- ASSISTANCE CONTRACTS AND OTHER FEDERAL AWARDS

This Exhibit 9, and the provisions and language provided herein, are incorporated into [PLACEHOLDER] (the “Agreement”), made and entered into on or about [DATE], by and between the County of Mono, a political subdivision of the State of California (“County”) and [CONTRACTOR], a [PLACEHOLDER] of [PLACEHOLDER] (“Contractor”), as if fully set forth therein.

1. PRECEDENCE. In the event of a conflict between the Agreement, an attachment to the Agreement, or an exhibit attached to the Agreement, the order of precedence shall be the applicable exhibit, then the Agreement, and then the attachments to the Agreement.

2. DEFINITIONS. The following definitions shall apply when used in this Exhibit 9.

2.1 “Government” means the United States of America and any executive department or agency thereof.

2.2 “FEMA” means the Federal Emergency Management Agency, an agency of or within the U.S. Department of Homeland Security.

2.3 “Third-Party Subcontract” means a subcontract at any tier entered into by Contractor or subcontractor, financed in whole or in part with federal assistance originally derived from FEMA.

3. NO OBLIGATION BY FEDERAL GOVERNMENT.

3.1 County and Contractor acknowledge and agree that, notwithstanding any concurrence by the Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Government, the Government is not a party to the Agreement and is not subject to any obligations or liabilities to County, Contractor, or any other party pertaining to any matter resulting from the Agreement.

3.2 Contractor agrees to include the above clause in each Third-Party Subcontract financed in whole or in part with federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

4. CHANGES TO FEDERAL LAW.

4.1 Contractor shall at all times comply with all applicable regulations, policies, procedures, and FEMA Directives as they may be amended or promulgated from time to time during the term of the Agreement, including but not limited to those requirements of 2 CFR §§ 200.317 through 200.326 and more fully set forth in Appendix II to Part 200: “Contract Provisions for non-Federal Entity Contracts Under

Federal Awards,” which is incorporated herein by reference. Contractor's failure to so comply shall constitute a material breach of the Agreement.

4.2 Contractor agrees to include the above clause in each Third-Party Subcontract financed in whole or in part with assistance provided by FEMA. The Parties further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

5. CHANGES TO THE AGREEMENT. Any change to the Agreement, including but not limited to a change that alters the method, price, or schedule of the services or work to be performed pursuant to the Agreement, shall be made in accordance with the requirements and formalities specified in Paragraph 23 of the Agreement. Notwithstanding the foregoing, if the Agreement is for the construction of a public work or the improvement of an existing facility, then any change or change order that alters the method, price, or schedule of the services or work to be performed pursuant to the Agreement, shall be made in accordance with the provisions of Exhibit 1: General Conditions attached to the Agreement. Notwithstanding anything in the Agreement (including any attachment or exhibit attached thereto) to the contrary, County reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed in excess of the Contract Limit provided in Paragraph 3.D of the Agreement.

6. ACCESS TO RECORDS.

6.1 Contractor agrees to provide County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. Contractor further agrees to permit any of the foregoing parties or entities to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6.2 Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

6.3 In compliance with the Disaster Recovery Act of 2018, County and Contractor acknowledge and agree that no language in the Agreement, or any attachment or exhibit attached thereto, is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

6.4 Contractor agrees to maintain all books, records, accounts, and reports required under this Agreement for a period of not less than three years after the later of either (i) the date of termination or expiration of this Agreement or (ii) the date County makes final payment under the Agreement, except in the event of litigation or settlement of claims arising from the performance of the Agreement, in which case, Contractor agrees to maintain the same until County, FEMA, the Comptroller General of the United States, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, or exceptions related thereto.

6.5 The requirements set for in this Section 6 are all in addition to, and should not be considered to be in lieu of, those requirements set forth in Paragraph 12 of the Agreement. Notwithstanding Section 1 hereof, in the event of a conflict between Section 1 of this Exhibit 9 and this Section 6, the provisions of this section shall control the obligations and responsibilities of Contractor.

7. TERMINATION.

7.1. Agreements for the Construction or Improvement of Public Works. If the Agreement is for the construction of a public work or the improvement of an existing facility, then termination of the

Agreement shall be in accordance with the provisions of Exhibit 1: General Conditions attached to the Agreement.

7.2. Agreements for All Other Services and Purchases. Except as provided in Section 3.1, the Agreement may be terminated by County, without or without cause, and at will, for any reason by giving to Contractor [PLACEHOLDER] calendar days written notice of such intent to terminate. Contractor may terminate the Agreement by giving to County not less than [PLACEHOLDER] calendar days written notice of such intent to terminate.

7.3 Suspension. County may temporarily suspend the Agreement, at no additional cost to County, provided that Contractor is given written notice (delivered by certified mail, return receipt requested, facsimile, or electronic mail) of the temporary suspension. If County gives such notice of temporary suspension, then Contractor shall immediately suspend its activities under the Agreement. A temporary suspension may be issued concurrent with the notice of termination provided for in this Section 7.

7.4 Work Product. Upon any termination of the Agreement, County shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with the Agreement.

7.5 Damages. Notwithstanding any provision of the Agreement or any attachment or exhibit thereto, Contractor shall not be relieved of liability to County for damages sustained by County by virtue of any breach or default of the Agreement by Contractor, and County may withhold any payments due to Contractor until such time as the exact amount of damages, if any, due to County from Contractor are determined.

8. REMEDIES. If the Contract Limit specified in the Agreement is in excess of Two Hundred and Fifty Thousand and NO/100 Dollars (\$250,000.00), then the provisions of this Section 8 shall govern remedies available to the Parties in the event of a breach of the Agreement, any obligation contained therein, and/or any provision or language thereof:

8.1 Default. If Contractor abandons the work, fails to proceed with the work or services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County under the Agreement, then County may declare Contractor in default and terminate this Agreement upon five (5) calendar days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination and may thereafter immediately pursue any additional remedy available to it at law or equity. Nothing contained in the Agreement or this exhibit shall be considered or interpreted as a limitation on any remedy available to County at law or equity.

8.2 Disputes.

8.2.1 Any dispute, other than one involving an audit, concerning a question of fact arising under the Agreement, including any and all attachments and exhibits thereto, that is not disposed of by agreement of the Parties shall be decided by a committee consisting of the Mono County Administrative Officer, the Mono County Public Works Director, and the Mono County Finance Director.

8.2.2 Not later than thirty (30) calendar days after completion of all work under the Agreement, Contractor may request review by the County Board of Supervisors of unresolved claims or disputes, other than audit. The request for review shall be submitted in writing.

8.2.3 Notwithstanding anything in the Agreement or this exhibit to the contrary, neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of the Agreement.

9. EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENT. If the Agreement is for the construction of a public work or improvement of a public facility and meets the definition of a “federally assisted construction contract,” as defined in 41 C.F.R. § 61-1.3, then this Section 9 shall apply to the Agreement.

During the performance of the Agreement, Contractor agrees as follows:

9.1 Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: (i) employment, upgrading, demotion, or transfer; (ii) recruitment or recruitment advertising; (iii) layoff or termination; (iv) rates of pay or other forms of compensation; and (v) selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

9.2 Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

9.3 Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

9.4 Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

9.5 Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the U.S. Secretary of Labor.

9.6 Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the U.S. Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the FEMA and the U.S. Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

9.7 In the event of Contractor's noncompliance with the nondiscrimination clauses of the Agreement, including but not limited to those provided in this Exhibit 9, or with any of the said rules,

regulations, or orders, the Agreement may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further government contracts or federally assisted construction agreements in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the U.S. Secretary of Labor, or as otherwise provided by law.

9.8 Contractor will include the portion of the sentence immediately preceding Section 4.1 and the provisions of 4.1 through 4.8 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the U.S. Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor of Contractor. Contractor will take such action with respect to any subcontract or purchase order as FEMA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by FEMA, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally-aid or -assisted construction work; provided, that if Contractor is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Agreement.

Contractor agrees that it will assist and cooperate actively with FEMA and the U.S. Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the U.S. Secretary of Labor, that it will furnish FEMA and the U.S. Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist FEMA in the discharge of the agency's primary responsibility for securing compliance.

Contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor or subcontractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by FEMA or the U.S. Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, Contractor agrees that if it fails or refuses to comply with these undertakings, FEMA may take any or all of the following actions: (i) cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); (ii) refrain from extending any further assistance to Contractor under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and (iii) refer the case to the Department of Justice for appropriate legal proceedings.

10. DAVIS BACON ACT REQUIREMENTS AND COMPLIANCE. If the Agreement is for the construction of a public work or improvement of a public facility with a contract limit in excess of \$2,000.00, then this Section 10 shall apply to the Agreement.

10.1 All transactions regarding the Agreement shall be done in compliance with the Davis-Bacon Act (40 U.S.C. §§3141-3144, 3146-3148) and the requirements of 29 C.F.R. Part 5 as may be applicable. Contractor shall comply with 40 U.S.C. §§ 3141-3144, 3146-3148 and the requirements of 29 C.F.R. Part 5 as applicable.

10.2 Contractors shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the U.S. Secretary of Labor. Contractor acknowledges and agrees that County has made Contractor aware of the current applicable prevailing wage determination(s) issued by the Department of Labor. That determination(s) is attached to and incorporated into the Agreement by this reference. Further, any decision by Contractor to award a contract or subcontract must be conditioned upon the acceptance of the wage determination(s). County shall report all suspected or reported violations to the federal awarding agency.

10.3 Additionally, Contractor will pay wages not less than once a week.

10.4 The requirements set for in this Section 10 are all in addition to, and should not be considered to be in lieu of, any requirement in the Agreement, or any attachment or exhibit thereto, that Contractor comply with the Section 1771 of the California Labor Code regarding the payment of prevailing wages. Current California Department of Industrial Relations requirements, including applicable prevailing wage rates, can be found and accessed at <https://www.dir.ca.gov/Public-Works/Prevailing-Wage.html>.

11. COPELAND “ANTI-KICKBACK” ACT REQUIREMENTS AND COMPLIANCE. If the Agreement is for the construction of a public work or improvement of a public facility with a contract limit in excess of \$2,000.00, then this Section 11 shall apply to the Agreement.

11.1 Contractor. Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. Part 3 as may be applicable, which are incorporated by reference into the Agreement.

11.2 Subcontracts. Contractor and/or subcontractor shall insert in any subcontracts to the Agreement the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

11.3 Breach. A breach of the Agreement, including any obligation, provision, or language thereof (including any attachment or exhibit attached thereto) may be grounds for termination of the Agreement, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

12. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT REQUIREMENTS AND COMPLIANCE. If the Agreement involves the employment of mechanics or laborers (but not the purchase of supplies, materials, or articles ordinarily available on the open market or contracts for transportation or transmission of intelligence) with a contract limit in excess of \$100,000.00, then this Section 12 shall apply to the Agreement.

12.1 Wage Computation; Overtime. Pursuant to 40 U.S.C. § 3702, as supplemented by U.S. Department of Labor regulations at 29 C.F.R. Part 5, Contractor shall compute the wages of every mechanic and laborer providing services and/or performing work pursuant to the Agreement on the basis of a standard work week of 40 hours. Neither Contractor nor any subcontractor contracting for any part of the services or work to be provided or performed under the Agreement which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

12.2 Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of Section 7.1 of this exhibit, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and any subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of Section 7.1 of this exhibit, in the sum of \$26.00 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by Section 7.1.

12.3 Withholding for Unpaid Wages and Liquidated Damages. FEMA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or any subcontractor under the Agreement, or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in Section 7.2 of this exhibit.

12.4 Subcontracts. Contractor or any subcontractor shall insert in any subcontracts to the Agreement the clauses set forth in Sections 7.1 through 7.4 of this exhibit, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in Sections 7.1 through 7.4 of this exhibit.

12.5 Health and Safety Standards. Pursuant to 40 U.S.C. § 3704, as may have been supplemented by U.S. Department of Labor regulations at 29 C.F.R. Part 5, neither Contractor nor any subcontractor thereof performing or providing services and/or work pursuant to the Agreement shall require any laborer or mechanic employed in the performance of the Agreement to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health or safety, as established under construction safety and health standards the U.S. Secretary of Labor prescribes by regulation.

13. DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS. County intends to seek reimbursement of its costs incurred in connection with the Agreement from FEMA. Accordingly, Contractor shall make every effort to procure services and work, as well as supplies, materials, and goods, from Minority Business Enterprises and Women Business Enterprises (collectively, "Disadvantaged Business Enterprises" or "DBEs") through the "Good Faith Effort" process as required in 2 C.F.R. § 200.321. Failure to perform the "Good Faith Effort" process and submit the forms listed below with the bid shall be cause for a bid to be rejected as non-responsive and/or be considered as a material breach of the contract.

13.1 Prime Contractor Responsibilities. All recipients of this grant funding, as well as their prime contractors and subcontractors, must take all affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible and make every effort to solicit bids from eligible DBEs. This information must be documented and reported.

13.2 "Good Faith Efforts" Process. Any public or private entity receiving federal funds must demonstrate that efforts were made to attract DBEs. The process to attract DBEs is referred to as the "Good Faith Effort." This effort requires the recipient, prime contractor, and any subcontractors to take the steps listed below to assure that DBEs are used whenever possible as sources of supplies, construction, equipment, or services. If a contractor or subcontractor fails to take the steps outlined below, then that

failure shall cause the bid to be rejected as non-responsive and/or be deemed a material breach of the contract:

- Place qualified DBEs on solicitation lists;
- Assure that DBEs are solicited whenever they are potential sources;
- Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBEs;
- Establish delivery schedules, where the requirement permits, which encourage participation by DBEs;
- Use the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- If subcontracts are to be let, then Contractor shall take the affirmative steps listed in 2 C.F.R. § 200.321.

14. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT REQUIREMENTS AND COMPLIANCE. If the Contract Limit provided in Paragraph 3.D of the Agreement, or the contract limit of any subcontract executed pursuant to the Agreement, is in excess of \$100,000.00 or more, then this Section 14 shall apply to the Agreement and/or subcontract.

14.1 Clean Air Act Requirements and Compliance.

14.1.1 Contractor agrees to comply with all applicable standards, orders, and/or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*

14.1.2 Contractor agrees to report each violation to County and understands and agrees that County will, in turn, report each violation as required to assure notification to FEMA, and the appropriate Environmental Protection Agency Regional Office.

14.1.3 Contractor agrees to include these requirements in each subcontract exceeding \$150,000.00 financed in whole or in part with federal assistance provided by FEMA.

14.2 Federal Water Pollution Control Act Requirements and Compliance.

14.2.1 Contractor agrees to comply with all applicable standards, orders, and/or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.*

14.2.2 Contractor agrees to report each violation to County and understands and agrees that County will, in turn, report each violation as required to assure notification to FEMA, and the appropriate Environmental Protection Agency Regional Office.

14.2.3 Contractor to include these requirements in each subcontract exceeding \$150,000.00 financed in whole or in part with federal assistance provided by FEMA.

15. ENERGY CONSERVATION REQUIREMENTS.

15.1 Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6201).

15.2 Contractor agrees to include Section 13.1 in each Third-Party Subcontract financed in whole or in part with federal assistance provided by FEMA. Contractor further agrees that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

16. DEBARMENT AND SUSPENSION.

16.1 The Agreement, including all attachments and exhibits attached thereto, is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, Contractor is required to verify that none of its principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

16.2 Contractor represents and warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension," or on the USEPA's List of Violating Facilities. Contractor agrees that neither Contractor nor any of its third-party subcontractors shall enter into any Third-Party Subcontracts for any of the work under the Agreement with a third-party subcontractor that is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under executive Order 12549 or on the USEPA's List of Violating Facilities.

16.3 Contractor agrees to include Sections 14.1 and 14.2 above in each Third-Party Subcontract financed in whole or in part with federal assistance provided by FEMA. Contractor further agrees that the language of Section 14.1 and 14.2 shall not be modified, except to identify the subcontractor who will be subject to its provisions.

16.4 Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. Contractor agrees to the provisions of Attachment 1 to this exhibit, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," attached hereto and incorporated herein. For purposes of the Agreement and Attachment 1, Contractor is the "prospective lower tier participant."

16.5 This warranty and certification of Contractor is a material representation of fact relied upon by County. If it is later determined that Contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to County, the Government may pursue available remedies, including but not limited to suspension and/or debarment.

16.6 In addition, if applicable, the bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

17. BYRD ANTI-LOBBYING AMENDMENT REQUIREMENTS AND COMPLIANCE. If the Contract Limit provided in Paragraph 3.D of the Agreement is \$100,000.00 or more, then Contractor this Section 17 shall apply to the Agreement.

17.1 Contractor shall not use or pay any funds received under the Agreement to influence or attempt to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

17.2 Notwithstanding the foregoing Section 15.1, Contractor agrees to the provisions of and to certify Attachment 2, "Certification Regarding Lobbying."

17.3 Contractor agrees to include Sections 15.1 and 15.2 (including the attachment specified therein) in each Third-Party Subcontract financed in whole or in part with federal assistance provided by FEMA. Contractor further agrees that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

18. PROCUREMENT OF RECOVERED MATERIALS.

18.1 In the performance of the Agreement, Contractor shall make maximum use of products containing recovered materials that are items designated by the U.S. Environmental Protection Agency ("EPA") unless the product cannot be acquired (i) competitively within a timeframe providing for compliance with the contract performance schedule; (ii) meeting contract performance requirements; or (iii) at a reasonable price.

18.2 Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site:
<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

18.3 Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

19. NOTICE OF REPORTING REQUIREMENTS.

19.1 Contractor acknowledges that it has read and understands the reporting requirements of FEMA in Part III of Chapter 11 of the United States Department of Justice's Office of Justice Programs Financial Guide, and agrees to comply with any such applicable requirements.

19.2 Contractor agrees to include Section 19.1 in each third-party subcontract financed in whole or in part with federal assistance provided by FEMA. Contractor further agrees that Section 19.1 shall not be modified, except to identify the subcontractor who will be subject to its provisions.

20. NOTICE OF REQUIREMENTS PERTAINING TO COPYRIGHTS.

20.1 Contractor agrees that FEMA shall have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for government purposes (i) the copyright in any work developed with the assistance of funds provided under this Agreement and (ii) any rights of copyright to which Contractor purchases ownership with the assistance of funds provided under the Agreement.

20.2 Contractor agrees to include Section 20.1 in each Third-Party Subcontract financed in whole or in part with federal assistance provided by FEMA. Contractor further agrees that Section 20.1 shall not be modified, except to identify the subcontractor who will be subject to its provisions.

21. PATENT RIGHTS.

21.1 General. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the Agreement, and that invention, improvement, or discovery is

patentable under the laws of the United States of America or any foreign country, then County and Contractor agree to take actions necessary to provide immediate notice and a detailed report to FEMA.

21.2 Unless the Government later makes a contrary determination in writing, irrespective of Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), County and Contractor agree to take the necessary actions to provide, through FEMA, those rights in that invention due the Government as described in U.S. Department of Commerce regulations at 37 C.F.R. Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."

21.3 Contractor agrees to include Sections 21.1 and 21.2 in each Third-Party Subcontract for experimental, developmental, or research work financed in whole or in part with federal assistance provided by FEMA.

22. U.S. DEPARTMENT OF HOMELAND SECURITY SEAL, LOGO, AND FLAGS. Contractor shall not use the U.S. Department of Homeland Security ("DHS") seal(s), logo(s), crest(s), or reproduction(s) of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

23. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS. Notwithstanding in the Agreement, including any attachment or exhibit attached thereto, to the contrary, by entering into the Agreement, Contractor acknowledges that FEMA financial assistance will be used to fund all or a portion of the Agreement. Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

24. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to the Agreement.

25. INCORPORATION OF UNIFORM ADMINISTRATIVE REQUIREMENTS. This Exhibit [PLACEHOLDER] includes, in part, certain standard terms and conditions required by FEMA, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by FEMA are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FEMA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests of County that would cause County to be in violation of the FEMA standard terms and conditions.

COUNTY OF MONO

CONTRACTOR

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATED:

DATED:

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ATTACHMENT 1 TO EXHIBIT 9

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

(NOTE: The term “lower tier” refers to the agency or contractor receiving federal funds, as well as any subcontractors that the agency or contractor enters into contracts with using those federal funds.)

As required by Executive Order 12549, Debarment and Suspension, as defined at 44 C.F.R. Part 17, County may not enter into contract with any entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Government from participating in transactions involving federal funds. Contractor is required to sign the certification below which specifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Government or federal agency. It also certifies that Contractor will not use, directly or indirectly, any of these funds to employ, award contracts to, engage the services of, or fund any contractor that is debarred, suspended, or ineligible under 44 C.F.R. Part 17.

Instruction for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this certification, have the meaning set out in the Definition and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this agreement/certification that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R Part 9, Subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion – Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of its proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Contractor Signature

Date

ATTACHMENT 2 TO EXHIBIT 9

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loan, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

Contractor Signature

Date



OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: County Counsel

TIME REQUIRED 5 minutes

**PERSONS
APPEARING
BEFORE THE
BOARD**

Stacey Simon, County Counsel

SUBJECT Employment Agreement - Jeffrey T.
Hughes

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed resolution approving a contract with Jeffrey T. Hughes as Deputy County Counsel, and prescribing the compensation, appointment, and conditions of said employment.

RECOMMENDED ACTION:

Announce Fiscal Impact. Adopt proposed resolution approving a contract with Jeffrey T. Hughes as Deputy County Counsel, and prescribing the compensation, appointment, and conditions of said employment. Authorize the Board Chair to execute said contract on behalf of the County.

FISCAL IMPACT:

The estimated cost of this position for the remainder of the fiscal year is \$153,205, of which \$105,631 is salary and \$47,574 is benefits. The total cost of salary and benefits for an entire fiscal year is approximately \$169,923, of which \$117,547 is salary and \$52,376 is benefits. Of these amounts, up to \$5,000 is a moving cost reimbursement and is non-recurring after the first year. This is included in the County Counsel preliminary FY 2023/24 budget.

CONTACT NAME: Stacey Simon

PHONE/EMAIL: x1704 / ssimon@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
Staff report
Resolution
Contract

History

Time	Who	Approval
7/24/2023 5:40 PM	County Counsel	Yes
7/24/2023 1:55 PM	Finance	Yes
7/25/2023 7:53 AM	County Administrative Office	Yes

County Counsel
Stacey Simon

Assistant County Counsel
Christopher L. Beck

Deputy County Counsel
Emily R. Fox

**OFFICE OF THE
COUNTY COUNSEL**

Mono County

South County Offices
P.O. BOX 2415
MAMMOTH LAKES, CALIFORNIA 93546

Telephone
760-924-1700

Risk Manager
Jay Sloane

Paralegal
Kevin Moss

To: Board of Supervisors

From: Stacey Simon

Date: August 1, 2023

Re: Employment Agreement with Jeffrey T. Hughes as Deputy County Counsel

Strategic Plan Focus Area(s) Met

A Thriving Economy Safe and Healthy Communities Mandated Function
 Sustainable Public Lands Workforce & Operational Excellence

Discussion

I am pleased to present for the Board's approval a contract of employment with Jeffrey T. Hughes ("Jeff") to serve Mono County as Deputy County Counsel, starting at the Deputy II level (Range 13, Step E).

Jeff was born in Mammoth Lakes and grew up in South Lake Tahoe. He is eager to return to the mountains to continue his career as an attorney, after graduating from the University of San Francisco School of Law and practicing in the Bay Area in the fields of immigration and intellectual property law. Jeff is an avid skier and athlete who competed with the Far West Junior Olympic Ski Team, rode the AIDS/Lifecycle from San Francisco to Los Angeles and served as a volunteer baseball coach. Jeff's first day of work for Mono County will be August 7th, and he is currently in the process of relocating to Mammoth Lakes.

If you have any questions regarding this item, please feel free to call or email me prior to the meeting.



RESOLUTION NO. R23-

**A RESOLUTION OF THE MONO COUNTY
BOARD OF SUPERVISORS APPROVING AN
EMPLOYMENT AGREEMENT WITH JEFFREY T. HUGHES
AND PRESCRIBING THE COMPENSATION, APPOINTMENT,
AND CONDITIONS OF SAID EMPLOYMENT**

WHEREAS, the Mono County Board of Supervisors has the authority under Section 25300 of the Government Code to prescribe the compensation, appointment, and conditions of employment of County employees;

NOW, THEREFORE, BE IT RESOLVED by the Mono County Board of Supervisors, that the Employment Agreement of Jeffrey T. Hughes, a copy of which is attached hereto as an exhibit and incorporated herein by this reference as though fully set forth, is hereby approved and the compensation and other terms and conditions of employment set forth in that Agreement are hereby prescribed and shall govern the employment of Mr. Hughes. The Chair of the Board of Supervisors shall execute said Agreement on behalf of the County.

PASSED AND ADOPTED this 1st day of August, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
Clerk of the Board

Rhonda Duggan, Chair
Board of Supervisors

APPROVED AS TO FORM:

COUNTY COUNSEL

**EMPLOYMENT AGREEMENT OF JEFFREY T. HUGHES
AS DEPUTY COUNTY COUNSEL FOR MONO COUNTY**

This Agreement is entered into by and between Jeffrey T. Hughes and the County of Mono (hereinafter “County”).

I. RECITALS

The County wishes to employ Jeffrey T. Hughes hereinafter (“Mr. Hughes”) as a Deputy County Counsel in accordance with the terms and conditions set forth in this Agreement. Mr. Hughes wishes to accept employment with the County on said terms and conditions.

II. AGREEMENT

1. This Agreement shall commence August 7, 2023, and shall remain in effect unless or until terminated by either party in accordance with this Agreement.
2. Commencing August 7, 2023, Mr. Hughes shall be employed by Mono County as Deputy County Counsel, serving at the will and pleasure of the County Counsel. Mr. Hughes accepts such employment. The County Counsel shall be deemed the “appointing authority” for all purposes with respect to Mr. Hughes’ employment. The County Counsel and Mr. Hughes will work together to establish specific, measurable, achievable and realistic performance goals for Mr. Hughes’ work. Mr. Hughes’ job performance and progress towards achieving the agreed-upon goals shall be evaluated by the County Counsel in accordance with the County’s Policy Regarding Compensation of At-Will and Elected Management Level Officers and Employees adopted by Resolution R21-44 on June 15, 2021, and as the same may be amended or updated from time to time and unilaterally implemented by the County (hereinafter the “**Management Compensation Policy**”).
3. Mr. Hughes’ salary shall be initially set at Range 13, Step E of the “Resolution Adopting and Implementing a Salary Matrix applicable to At-Will Employee and Elected Department Head Positions” (most recently adopted by Resolution R23-016 on February 21, 2023, hereinafter the “**Salary Matrix**”) and shall be modified as provided in the Management Compensation Policy and the Salary Matrix, and as the same may be amended or updated from time to time and unilaterally implemented by the County. In addition, Mr. Hughes shall be entitled to a one-time reimbursement of the costs of his moving expenses to relocate to Mono County in an amount equal to actual costs, but not-to-exceed \$5,000. To receive such reimbursement, Mr. Hughes shall submit an invoice or other documentation of the amount paid.
4. Mr. Hughes understands that he is responsible for paying the employee’s share of any retirement contributions owed to the Public Employees Retirement System (PERS) with respect to his employment for the County as determined by the County’s contract with PERS and/or County policy, and also any employee share of the “normal cost” of his

retirement benefits that may be mandated by the Public Employees' Pension Reform Act of 2013 (PEPRA).

5. Mr. Hughes shall earn and accrue vacation and sick leave in accordance with the "Policy Regarding Benefits of Management-level Officers and Employees," updated most recently by Resolution R20-56 of the Mono County Board of Supervisors and as the same may be further amended from time to time and unilaterally implemented by the County (hereinafter the "**Management Benefits Policy**") and in accordance with any applicable County Code provisions not in conflict with said Policy. Also, pursuant to said Policy, in recognition of the fact that his employment will be exempt from the payment of overtime or compensatory time-off under the Fair Labor Standards Act, he shall be entitled to 80 hours of merit leave (aka administrative leave) during each calendar year of service under this Agreement, prorated for 2023 to reflect Mr. Hughes' August 7th start date. Mr. Hughes understands that said merit leave does not accrue from one calendar year to the next; rather, it must be used by December 31st of each calendar year in which it is provided, or it is lost.
6. To the extent deemed appropriate by the County Counsel, the County shall pay the professional dues, subscriptions, and other educational expenses necessary for Mr. Hughes' full participation in applicable professional associations, for his continued professional growth and for the good of the County.
7. To the extent not inconsistent with the foregoing or any other provision of this Agreement, Mr. Hughes shall be entitled to the same general benefits provided by the County to other management-level employees, as described more fully in the County's Management Benefits Policy. Such benefits include but are not limited to CalPERS retirement benefits at the tier applicable to Mr. Hughes' employment, medical insurance, County dental and vision coverage, and life insurance.
8. Mr. Hughes understands and agrees that his receipt of compensation or benefits of any kind under this Agreement or under any applicable County Code provision or policy – including but not limited to salary, insurance coverage, and paid holidays or leaves – is expressly contingent on his actual and regular rendering of full-time personal services to the County or, in the event of any absence, upon his proper use of any accrued leave. Should Mr. Hughes cease rendering such services during this Agreement and be absent from work without any accrued leave to cover said absence, then he shall cease earning or receiving any additional compensation or benefits until such time as he returns to work and resumes rendering personal services; provided, however, that the County shall provide any compensation or benefits mandated by state or federal law. Furthermore, should Mr. Hughes' regular schedule ever be reduced to less than full-time employment, on a temporary or permanent basis, then all compensation and benefits provided by this Agreement or any applicable County policies shall be reduced on a pro-rata basis, except for those benefits that the County does not generally pro-rate for its other part-time employees.

9. Consistent with the “at will” nature of Mr. Hughes’ employment, the County Counsel may terminate Mr. Hughes’ employment at any time during this Agreement, without cause. In that event, this Agreement shall automatically terminate concurrently with the effective date of the termination. Mr. Hughes understands and acknowledges that as an “at will” employee, he will not have permanent status nor will his employment be governed by the Mono County Personnel Rules except to the extent that the Rules are ever modified to apply expressly to at-will employees. Among other things, he will have no property interest in his employment, no right to be terminated or disciplined only for just cause, and no right to appeal, challenge, or otherwise be heard regarding any such termination or other disciplinary action the County Counsel may, in his or her discretion, take during Mr. Hughes’ employment.
10. In the event of a termination without cause occurring after the first twelve (12) months of employment, Mr. Hughes shall receive as severance pay a lump sum equal to six (6) months’ salary. For purposes of severance pay, “salary” refers only to base compensation. Mr. Hughes shall not be entitled to any severance pay in the event that the County Counsel has grounds to discipline him on or about the time he or she gives notice of termination. Grounds for discipline include but are not limited to those specified in section 520 of the Mono County Personnel Rules, as the same may be amended from time to time. Mr. Hughes shall also not be entitled to any severance pay in the event that he becomes unable to perform the essential functions of his position (with or without reasonable accommodations) and his employment is duly terminated for such non-disciplinary reasons.
11. Mr. Hughes may resign his employment with the County at any time. His resignation shall be deemed effective when tendered, and this agreement shall automatically terminate on that same date, unless otherwise mutually agreed to in writing by the parties. Mr. Hughes shall not be entitled to any severance pay or earn or accrue additional compensation of any kind after the effective date of such resignation.
12. This Agreement constitutes the entire agreement of the parties with respect to the employment of Mr. Hughes
13. The parties agree that the Board of Supervisors’ approval of this Agreement on behalf of the County is a legislative act and that through this agreement, the Board of Supervisors is carrying out its responsibility and authority under Section 25300 of the Government Code to set the terms and conditions of County employment. It is not the parties’ intent to alter in any way the fundamental statutory (non-contractual) nature of Mr. Hughes’ employment with the County nor to give rise to any future contractual remedies for breach of this Agreement or of an implied covenant of good faith and fair dealing. Rather, the parties intend that Mr. Hughes’ sole remedy in response to any failure by the County to comply with this Agreement shall be traditional mandamus. Pursuant to Government Code sections 53243 et seq., Mr. Hughes shall reimburse the County for any paid leave pending an investigation, legal criminal defense, or cash settlement related to termination by the County if Mr. Hughes is convicted of a crime involving abuse of

office or position.

14. Mr. Hughes acknowledges that this Agreement is executed voluntarily by him, without duress or undue influence on the part or on behalf of the County. Mr. Hughes further acknowledges that he has participated in the negotiation and preparation of this Agreement and has had the opportunity to be represented by counsel with respect to such negotiation and preparation or does hereby knowingly waive his right to do so, and that he is fully aware of the contents of this Agreement and of its legal effect. Thus, any ambiguities in this Agreement shall not be resolved in favor of or against either party.

15. For purposes of the agreement a photocopy, facsimile, .pdf, and electronically scanned signatures, including but not limited to Docusign or similar service, shall be deemed as valid and as enforceable as an original.

III. EXECUTION

This Agreement is executed by the parties this 1st day of August, 2023.

EMPLOYEE

THE COUNTY OF MONO


Jeff Hughes (Jul 21, 2023 11:57 PDT)

JEFFREY T. HUGHES

By: Rhonda Duggan, Chair
Board of Supervisors

APPROVED AS TO FORM:

COUNTY COUNSEL

Signature: 
Stacey Simon (Jul 21, 2023 11:45 PDT)

Email: ssimon@mono.ca.gov



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: County Administrative Office

TIME REQUIRED 10 minutes

**PERSONS
APPEARING
BEFORE THE
BOARD**

Mary Booher, Interim County
Administrative Officer

SUBJECT Contract Indigent Defense Services

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Authorization to release request for Proposals (RFP) for indigent defense services.

RECOMMENDED ACTION:

Direct staff to finalize and issue an RFP for indigent defense services.

FISCAL IMPACT:

Unknown until RFP responses received. Preliminary budget is for \$700,000, which covers three public defenders, investigators, and other contract costs related to indigent defense services.

CONTACT NAME: Stacey Simon

PHONE/EMAIL: x1704 / ssimon@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
Staff report
RFP
Sample agreement

History

Time	Who	Approval
7/26/2023 12:54 PM	County Counsel	Yes
7/27/2023 9:14 AM	Finance	Yes

7/27/2023 11:42 AM

County Administrative Office

Yes



COUNTY OF MONO

P.O. BOX 696, BRIDGEPORT, CALIFORNIA 93517
(760) 932-5410 • FAX (760) 932-5411

Mary Booher
Interim County Administrative Officer

To: Board of Supervisors

From: Mary Booher, Interim County Administrative Officer

Date: August 1, 2023

Re: Request for Proposals for Public Defender Services

Recommended Action

Direct the County Administrative Officer to finalize response dates in the attached Request for Proposals (RFP) for indigent defense counsel services and to advertise and issue the RFP.

Discussion

The County complies with its obligation to provide legal defense services for indigent criminal defendants, parties to child welfare matters and individuals proposed for conservatorship by contracting with three licensed attorneys who share the workload roughly evenly among themselves.

The County anticipates that one of its currently-contracted attorneys will be terminating his contract and moving on to different work. Accordingly, it is recommended that the County commence the process toward entry into a new contract by advertising and issuing the attached RFP for indigent defense services.

Upon Board direction, staff will publish and circulate the attached RFP announcement to commence the process.

If you have any questions regarding this item prior to the meeting, please contact me at 760-932-5415.

COUNTY OF MONO
REQUEST FOR PROPOSALS
INDIGENT DEFENSE SERVICES



Proposal Submission Deadline – _____, 2023

Contract Start Date – _____ (or earlier)

Mail Proposal to: Mono County Administrative Office
P.O. Box 696
Bridgeport, CA 93517; OR

Email Proposal to: dwhybrew@mono.ca.gov

GENERAL DESCRIPTION

Indigent defense services in Mono County are provided through contracts with three individual attorneys, who collaborate and work together to cover the full scope of indigent defense services, each under a separate contract with the County.

The County of Mono invites proposals from attorneys or law firms interested in providing one-third of the County's indigent defense services under Contract with the County in collaboration with two existing contract public defenders. A proposed version of the Contract is attached hereto and incorporated by reference ("the Contract"). Generally, such services include representation of every person determined by the Superior Court of the State of California in and for the County of Mono to be entitled to a court-appointed attorney pursuant to relevant state statute, court rule, or constitutional provision. The contractual services would commence following award and Contract execution, on or around _____. The proposed Contract term is three years, with an option to extend.

The County will pay a fixed monthly rate for all services., The fixed monthly rate shall include and shall be deemed to fully compensate Contractor for any and all expenses incurred in rendering the Contract services, with the exception of certain litigation expenses such as fees for expert witnesses, laboratory analysis, and other forensic services. (See Section IX(E) of the Proposed Contract.)

A qualified proposal would be one that proposes to provide one-third of the required services under contract with the County and in coordination with two other contract attorneys. The County does NOT desire and will not consider proposals to provide only a portion of the total services described in the Scope of Work.

The proposing attorney or firm and any subcontracting attorneys or firms will be required to avoid engaging in legal services or representation that would conflict with, or otherwise render them unavailable for, the services contemplated under the Contract. All attorneys must also meet the minimum qualification requirements, including requisite prior experience in certain types of cases. (See Section VI of the Contract.)

SCOPE OF WORK

As described more fully in the Contract, the Contracting attorney or firm ("Contractor") shall, together with other contracting attorneys, provide representational services to all eligible persons in Mono County trial court actions or proceedings, except where a legal conflict of interest exists and conflict counsel must be appointed or representation by a different attorney is otherwise legally required. Contractor shall provide the names of all attorneys providing representational services under the Contract to the Courts and the County, and the County shall have the right to reject any attorney who is not qualified to provide the services.

SELECTION CRITERIA

The following general criteria will be used by a selection committee designated by the County to determine the best-qualified professional(s) to provide the services. The County reserves the right to reject any proposals that do not comply with the Request for Proposal (“RFP”) requirements set forth herein. The County shall determine in its sole discretion the relative weight given any criterion and reserves the right to reject all proposals and staff the indigent defense program in another manner. The intent is to provide eligible persons with effective legal representation, at a reasonable cost to the County. The County reserves the sole right to make this determination.

- A. The proposal and any modification is complete and timely, in conformance with this RFP.
- B. Attorney(s) are active member(s) of the California Bar in good standing without any prior or current history of professional discipline and otherwise meet the minimum qualification requirements (including requisite years of experience) set forth in Section VI of the Contract.
- C. The proposed plan for delivery of services is adequate to ensure effective legal representation. Among the factors the County may consider are the quality of legal representation, the experience of the attorney(s) beyond the minimum requirements, available support staff, office location(s), caseload and references/recommendations.
- D. The attorney(s) have the ability to perform the Contract effectively and efficiently and to provide representation in the types of cases proposed. Among the factors the County may consider are personal qualifications and successful experience providing public defense services under contract.
- E. The attorney(s) demonstrate an ability to work cooperatively with other contract attorney(s) providing indigent defense services under contract with the County to equitably and appropriately share caseload and provide effective legal representation to all eligible clients except where a legal conflict exists.
- F. Any other relevant considerations as determined by County.
- G. Cost to the County (proposed monthly compensation rate).

ADDITIONAL ITEMS

The County makes no representations or warranties of any kind regarding the total number of cases or the number of any particular type of case that Contractor may be required to handle under the Contract. Contractor expressly assumes that risk and shall be deemed to have done his or her own inquiry prior to submitting a proposal. Be advised that past cases are not necessarily predictors of future filings and each party to the Contract bears some risk regarding the number of cases which may require public defense in any given year.

GUIDELINES FOR SUBMITTING PROPOSALS

Proposals should be submitted in accordance with the following submission guidelines:

A. Proposal Format: Proposals should be typed or printed on standard 8 ½” x 11” paper. The information required must be submitted by the date and time requested. Incomplete proposals will not be considered.

B. Provider Summary: Prior to the Narrative Section, at the front of the proposal, all proposals must contain a concise statement of all of the following information:

1. Date proposal is submitted to the County.
2. Summary information for each attorney who would provide services under the Contract and any contemplated attorney subcontract: name, bar number, physical business address, mailing address, phone number(s), year admitted to California Bar, and total years/months of relevant experience.
3. Summary information for each person involved in contract administration, including anyone who would serve as a contact with the County regarding the contract: name, physical business address, mailing address, phone numbers

C. Proposal Narrative and Contents:

1. General Qualifications: This section should include a brief summary of each attorney’s overall experience, training and availability to assume the duties under the proposed Contract.
2. Public Defense Qualifications: A detailed description of experience and expertise, which qualifies each attorney who would be involved in providing services under the Contract and any contemplated subcontract. Please include names and phone numbers of at least three (3) persons to be contacted as references. Letters of recommendation may also be provided.
3. Contract Understanding: A statement of assurance that the proposing party has read the proposed Contract. If the party is proposing modifications, include all that would be required by the party prior to executing the proposed Contract. Additionally, the proposing party must include an assurance that he/she will not accept employment or provide legal services that would conflict with the services provided under the proposed Contract.
4. Practical Approach: A description of the practical approach to providing the services described in the proposed Contract which includes at least the following:
 - a. A brief narrative of the proposal for delivery of services under the Contract. Include the proposal for facilities, staff, division of workload, utilization of experts, investigators, support staff etc.
 - b. A description of how the bilingual requirements of clients will be addressed.
 - c. A plan for collaborating successfully with other attorneys providing indigent defense services under contract with the County to ensure that cases are effectively handled and equitably divided. If possible, a statement from those other attorneys agreeing to cooperate as stated in the plan.

- d. A plan for backup services in the event the assigned attorney is unavailable (this may be covered in the plan described in subparagraph c if the plan involves other attorneys under contract for indigent defense services with the County).
5. Work Examples: Written examples of the work of each attorney who would be involved in providing the services, including at least one example of a client communication (e.g., a letter or email) and at least one example of a legal brief or pleading, preferably in a criminal matter. Redacted documents are acceptable.
6. Professional and Personal References: At least two professional references from individuals who are familiar with your work.
7. Proposed Compensation: The fixed monthly rate of compensation proposed to be paid by the County to Contractor.
8. Start Date: Please indicate the date by which you could be available to commence providing services under the Contract.
9. Acknowledgment: The proposal must be signed by the attorney(s) providing the services under the proposal.

D. Submission Procedures/Due Date: Proposals must be received by the County no later than 5:00 p.m., _____, _____, 2023, in order to be considered. Please submit four (4) copies of the proposal by personal delivery or U.S. Mail, or one copy by email, to:

Mono County Administrative Office
Attn: Danielle Whybrew
Courthouse Annex 1
P.O. Box 696
Bridgeport, California 93517
dwhybrew@mono.ca.gov

Late proposals will not be accepted or considered. The County will not be responsible for proposals delivered to a person or location other than that specified in this RFP. All proposals shall be submitted in a sealed envelope, clearly marked with the title of the proposal and signed by the attorneys submitting it (on behalf of themselves, or their firm if applicable).

All responses to this RFP become the property of the County. The County will direct that all proposals be held confidential from parties other than the County and its selection committee, until the selection of the successful proposal (if any) and execution of a final Contract for services.

A proposal may be withdrawn at any time prior to the deadline for submitting proposals by notifying the County in writing of its withdrawal. The notice must be signed by the attorneys who submitted the original proposal. The proposing party may thereafter submit a new or modified proposal, if it is received at the County Administrative Office by the submission deadline. Modification offered in any other manner, whether oral or written, will not be considered.

The County reserves the right to reject all proposals. The County also reserves the right to negotiate with the successful proposing party (if any) regarding the terms and conditions of any ultimate contract with that party.

E. Questions: All questions must be in writing to receive a response. The County will maintain a written log of written questions along with the answers thereto. For copies of the questions and answers, please contact the County Administrative Officer to be placed on the mailing list. No questions regarding this RFP will be responded to by the County if they are received after _____, 2023.

SELECTION PROCESS

A County selection committee will review and evaluate submittals, based on the criteria listed herein and weighted in the discretion of the committee. Interviews may be conducted. At the conclusion of that process, the selection committee will rank proposals and discussion regarding final Contract terms will commence with the highest-ranked proposer. If agreement is reached through those discussions, the Contract will be recommended for Board Approval. If agreement is not reached, the County will commence negotiations with the next highest-ranked proposer, etc. until agreement is reached and a Contract is drafted for recommendation to the Board of Supervisors.

**CONTRACT BETWEEN THE COUNTY OF MONO
AND _____
FOR THE PROVISION OF INDIGENT DEFENSE SERVICES**

The County of Mono, a political subdivision of the State of California, hereinafter referred to as “the COUNTY,” and _____, referred to hereafter as “the CONTRACTOR,” agree to the provisions of indigent defense services as outlined below for the period _____ through _____. The COUNTY and the CONTRACTOR are sometimes referred to herein collectively as “the parties.”

RECITALS

- The COUNTY has a constitutionally mandated responsibility to provide indigent defense services.
- The COUNTY desires to have and agrees to pay for legal services performed for eligible persons entitled to public representation in Mono County by the CONTRACTOR, as authorized by law.
- The CONTRACTOR agrees that it will provide competent representation of clients as required by the controlling standards and rules of professional conduct.
- The COUNTY and the CONTRACTOR agree that any and all funds provided pursuant to this Contract are provided for the sole purpose of provision of legal services, including the cost of administrative services, to eligible clients of the CONTRACTOR.

TERMS AND CONDITIONS

The parties AGREE as follows:

I. DURATION OF CONTRACT

This Contract shall commence on _____ and terminate on _____, unless extended or terminated earlier in a manner allowed by this Contract. The COUNTY may, in its sole discretion, extend the term of this Contract for an additional period of up to five years by providing notice to CONTRACTOR at least 180 days prior to the date of termination.

II. DEFINITIONS

The following definitions control the interpretation of this Contract:

A. Eligible Client:

Eligible client means a person who is or has been determined by the Superior Court of the State of California in and for the County of Mono (hereinafter “the Court”) to be entitled to a court-appointed attorney, pursuant to relevant state statute, court rule, and constitutional provision, and who is one of the following:

1. All persons whom the Court has deemed indigent and who are charged with the commission of a misdemeanor or felony triable in any court in the County.
2. All minors charged with a violation of Welfare and Institutions Code Section 601 or 602.

3. All persons the Court has deemed indigent, and for whom a petition for the appointment of an LPS conservator has been filed.
4. All persons the Court has deemed indigent seeking writs or appeals to the Superior Court in the type of cases described in this contract.
5. All persons the Court has deemed indigent and who are charged with a violation of misdemeanor probation.
6. All persons the Court has deemed indigent and who are charged with a violation of felony probation.
7. All persons the Court has deemed indigent and entitled to appointment of counsel in Welfare and Institutions Code Section 300 cases, and also any children who are the subject of such proceedings and who the Court has determined are entitled to appointed counsel. Note: under a separate Contract, the County currently receives compensation from the Courts for the provision of such legal services, and the County reserves the right to re-open and renegotiate the inclusion of such services in this Contract, and the compensation therefore, in the event that the courts ever refuse or cease to provide such compensation to the County.
8. All persons the Court has deemed indigent in probate or Lanterman-Petris Short Act (LPS Act) conservatorships and in which the Court appoints counsel.
9. All persons the Court has deemed indigent and subject to extradition.
10. All persons the Court has deemed indigent and subject to contempt.

B. Disposition:

Disposition in criminal cases shall mean and/or include:

1. The dismissal of charges;
2. The entering of an order of deferred prosecution;
3. An order or result requiring a new trial;
4. Imposition of sentence;
5. Deferral of any of the above coupled with any other hearing on that case number, including but not limited to felony or misdemeanor probation review;
6. A restitution hearing ordered at the time of original disposition.
7. The filing of a notice of appeal, if applicable.

Disposition in other cases shall mean:

In Welfare and Institutions Code Section 300 juvenile cases, termination of the proceedings; in Section 601 or 602 cases, disposition, unless there is an order for removal; or an order following a disposition hearing; in revocation of probation, a dismissal, or imposition of sentence; in all other cases, an adjudication in the trial court which constitutes a final order or judgment, unless reversed on appeal.

C. **Representational Services:** The services for which the COUNTY is to pay the CONTRACTOR are representational services, including but not limited to interviews of clients and potential witnesses, legal research, preparation and filing of pleadings, negotiations with the appropriate prosecutor or other attorneys and court regarding possible dispositions, and preparation for and appearance at all court proceedings.

D. **Investigative Services:** The services described in section IV.B.

- E. Other Litigation Expenses: Other Litigation Expenses shall mean those expenses which are not part of the contract with the CONTRACTOR, expert witness services, language translators, laboratory analysis, and other forensic services. It is anticipated that payment for such expenses will be applied for in the appropriate courts by motion and granted out of separate funds reserved for that purpose. Payment for mitigation specialists in Capital cases is included in this category.
- G. Misappropriation of Funds: Misappropriation of funds is the appropriation of funds received pursuant to this Contract for purposes other than those sanctioned by this Contract. The term shall include the disbursement of funds for which prior approval is required but is not obtained.

III. INDEPENDENT CONTRACTOR

The CONTRACTOR is, for all purposes arising out of this Contract, an independent contractor, and neither the CONTRACTOR nor its employees shall be deemed employees of the County. The CONTRACTOR shall complete the requirements of this Contract according to the CONTRACTOR'S own means and methods of work, which shall be in the exclusive charge and control of the CONTRACTOR and which shall not be subject to control or supervision by the COUNTY, except as specified herein.

IV. SCOPE OF SERVICES.

- A. Together with other indigent defense counsel under direct contract to COUNTY, CONTRACTOR, shall provide representational services to all eligible clients in Mono County trial court actions or proceedings.
- B. CONTRACTOR may utilize the services of a licensed private investigator ("INVESTIGATOR") under Business and Professions Code section 7520 and 7521, with whom the COUNTY has entered into a separate contract for services, or of any other INVESTIGATOR upon appointment by the Court in a particular case. INVESTIGATOR SERVICES shall be used in the context of any of the representational services covered by this Contract, including but not limited to securing evidence to be used before the Courts of Mono County. INVESTIGATORS shall not perform services of a clerical or administrative nature and which do not require the services of a licensed private investigator, nor shall INVESTIGATORS be used for the purpose of serving subpoenas on witnesses or custodians of record. Notwithstanding the foregoing, an INVESTIGATOR may be used for the purpose of serving subpoenas on witnesses or custodians of record at no additional cost to the County and provided CONTRACTOR assumes the cost.

V. CONTRACTOR'S OFFICES, EMPLOYEES AND CONFLICT AVOIDANCE

- A. CONTRACTOR shall have physically separate offices from any other attorney under contract with COUNTY to provide indigent defense services. CONTRACTOR shall maintain an ethical and communications wall between CONTRACTOR and such attorney(s) about their respective cases, to maintain the confidences of clients.

- B. CONTRACTOR agrees not to accept compensation directly or indirectly from any source other than the COUNTY on cases assigned pursuant to this agreement.
- C. CONTRACTOR shall maintain the right to have private clients outside of this Contract; provided, however, that they shall structure their private practices in such a way as to avoid any conflicts with representational services provided pursuant to this agreement.
- D. CONTRACTOR further agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR'S performance of the work and services under this Contract. Specifically, CONTRACTOR agrees not to engage in any private legal representations of any matter which would conflict or interfere with CONTRACTOR'S ability to represent clients under this Contract.
- E. CONTRACTOR agrees that it has secured or will secure at its own expense, all persons, employees, office space within Mono County and equipment required to perform the service contemplated/required under this Contract.

VI. MINIMUM QUALIFICATIONS FOR ATTORNEY PROVIDING INDIGENT DEFENSE SERVICES

- A. CONTRACTOR shall be licensed to practice law in California (i.e., shall be an active member of the California State Bar), shall have been a practicing attorney in all of the courts of the State for at least the year preceding the date of appointment, and shall be in full compliance with any applicable mandatory continuing legal education (MCLE) requirements. CONTRACTOR will maintain for inspection on its premises records of CONTRACTOR compliance these requirements.
- B. Prior to representing a defendant accused of a homicide, CONTRACTOR must have served at least five years as a prosecutor, a public defender, or assigned counsel within a formal assigned counsel plan that included training, or have demonstrably similar experience, and been trial counsel and handled a significant portion of the trial in five felony cases that have been submitted to a jury.
- C. Prior to representing a defendant accused of a serious felony as defined by Penal Code section 1192.7, or of a violent felony as defined by Penal Code section 667.5, other than a homicide, CONTRACTOR must have served at least three years as a prosecutor, a public defender, or assigned counsel within a formal assigned counsel plan that included training, or have demonstrably similar experience, and been trial counsel and handled a significant portion of the trial in three felony cases, that have been submitted to a jury.
- D. CONTRACTOR representing a party in a juvenile case shall have the knowledge and experience in juvenile law as required by Welfare and Institutions Code section 317.6 and the standards established by the Judicial Council.

- E. CONTRACTOR shall have served at least three years as a prosecutor, a public defender, or assigned counsel within a formal assigned counsel plan that included training, or have demonstrably similar experience, and/or been sole trial counsel of record in twenty misdemeanor cases brought to final resolution, or been sole or co-trial counsel and handled a significant portion of the trial in three felony criminal cases that have been submitted to a jury alone or of record with other trial counsel.
- F. Failure on the part of the CONTRACTOR to have or obtain the appropriate amount of experience shall be considered a material breach of this Contract.

VII. PERFORMANCE REQUIREMENTS

- A. CONTRACTOR shall provide quality representational services to all eligible clients to whom the CONTRACTOR is appointed by the Court, consistent with any applicable rules of professional conduct and standards of care. Specifically, the following duties and responsibilities of CONTRACTOR as appointed by the Court shall be observed:
 - 1. Provide careful, factual and legal investigation.
 - 2. Take prompt action to protect client's legal rights.
 - 3. Make all necessary court appearances for motions, trials, adjudications, hearings, dispositions, and sentencing.
 - 4. Prepare for jury selections, examination of witnesses, submission of instructions, and presentation of argument at trial.
 - 5. Know and explore sentencing alternatives.
 - 6. Advise the client concerning appeals.
 - 7. Not accept more cases than can be competently handled.
 - 8. Not handle a legal matter which the CONTRACTOR knows or should know that it is not competent to handle.
 - 9. Maintain client confidences.
 - 10. Keep the client informed.
 - 11. Comply with all standards of performance set by the Courts and rules in juvenile cases.
 - 12. Not accept a matter in which a conflict of interest exists of which it would be otherwise prohibited from accepting under the Rules of Professional Conduct of the State Bar.
- B. Except as provided herein, the CONTRACTOR shall maintain an office in Mono County and appropriate staff to adequately perform the work and services provided in this Contract and to address the needs of CONTRACTOR's clients. CONTRACTOR will be timely available for all Court appearances, and meet all performance requirements of this Contract and of the Courts, and have available office space in Mono County for interviewing and consulting with clients.
- C. CONTRACTOR shall maintain adequate office space and hours during normal business hours for appointments with potential eligible clients who are not in custody. CONTRACTOR shall maintain published office addresses and phone numbers and

telephone answering services or devices for the taking of telephone messages during non-business hours. CONTRACTOR shall make return calls within 24 hours of all calls from clients for which a message is left requesting a return call.

- D. In-custody eligible clients shall be interviewed within 72 hours, excluding weekends and holidays, of CONTRACTOR appointment. Out of custody eligible clients may make an appointment with CONTRACTOR who shall make available an appointment at an office in Mono County within five business days of CONTRACTOR appointment. In all cases, CONTRACTOR shall personally speak with the client prior to the date of the first court appearance following appointment by the Court.
- E. CONTRACTOR shall keep all courts informed of the status of pending cases to which it has been appointed and shall advise the courts at the earliest possible time as to whether cases will be settled or go to trial, whether continuances are needed, whether or when interpreters will be needed, and other such matters bearing on the scheduling of cases before the courts.
- F. CONTRACTOR shall adequately cover all courts within the County through which services are to be provided under this contract. "Adequately cover" means generally that the business of the court is not unreasonably delayed because of the absence of/or lack of preparation of the CONTRACTOR.
- G. In the event that CONTRACTOR is unable to appear for any matter to which he or she has been appointed, then he or she shall arrange for other counsel to appear on his or her behalf, at no cost to the COUNTY.

VIII. CONTRACTOR EVALUATION

In June of each year during the term of this Contract, and any extension thereof, commencing June 2020, the County Counsel, County Finance Director and County Administrative Officer shall meet with the CONTRACTOR and the Judges of the court to ensure that the performance standards set forth herein are being met. If upon said evaluations, the COUNTY determines that the CONTRACTOR is failing to provide competent legal services based upon the above standards or has engaged in conduct that, if CONTRACTOR were an employee of the County, would violate the Mono County Personnel System, the COUNTY may terminate this Contract as provided in paragraph XV.

IX. COMPENSATION AND METHOD OF PAYMENT

- A. For services provided under this contract, COUNTY shall pay CONTRACTOR \$_____ annually, for the period of _____ through _____. This amount shall be increased by two percent (2%) annually, commencing on April 1 of each year. These amounts shall be paid in monthly installments as follows, _____ payable within 5 days following the end of month in which services are provided. In the event that this Contract is extended pursuant to Section I, annual increases shall continue to be 2%.

- C. The compensation payable under this section IX is the maximum amount which COUNTY must pay under this Contract, and the CONTRACTOR shall assume and pay all other expenses incurred in the performance of this Contract. The CONTRACTOR represents that CONTRACTOR is informed and has made its own independent investigation of the facts and circumstances surrounding the provision of public defense services in Mono County, including its own experience in providing such services and the issues involving the administration of this contract. The CONTRACTOR and COUNTY acknowledge that many factors outside the control of the parties can affect the ability of the CONTRACTOR to accurately project caseloads and work levels with certainty. Such factors as the length of time between arraignment and trial, local sentencing practices, and pleading negotiation practice are largely controlled by the courts and the prosecution. The parties recognize that during the term of this Contract, changes may occur in the operations of the County's criminal justice system which may cause additional expense to CONTRACTOR. Notwithstanding any such changes, the CONTRACTOR agrees to the compensation set forth in this Contract for services to be rendered.
- D. COUNTY shall receive all funds collected pursuant to Penal Code section 987.4, 987.6, and 987.8, Government Code section 27712, and any similar statute or Contract providing for reimbursement for the costs of legal services rendered under this Contract, and no portion of said funds inure for the benefit of CONTRACTOR or otherwise affect the amount specified to be paid to CONTRACTOR under this contract.
- E. Other litigation expenses, as defined in section II E, shall be paid by COUNTY upon CONTRACTOR submitting a county claim form, to which shall be attached an order of the Court fixing the expenses to be paid. Each claim shall include:
1. The name of the client and case number;
 2. The date and time the services were provided, in 10th hour increments;
 3. A description of the services provided on each date.

Any claim for which the above is not provided shall be deemed an insufficient claim.

- F. CONTRACTOR shall be solely responsible for providing and paying the cost of all utilities, photocopies, facsimiles, telephones, postage, office furniture, equipment, supplies, secretaries, clerks, staff attorneys, transportation, and other materials, services, and persons necessary to perform this Contract, except for the following: costs for expert witnesses, language translators, laboratory analysis, other forensic services, court reporter fees, filing fees, transcript fees, witness fees, and documents produced through discovery by the County in Welfare and Institutions Code section 300 cases and documents produced through discovery by the District Attorney in Criminal and Welfare and Institutions Code section 600 cases.
- G. COUNTY has no obligation to withhold any taxes or other payments from the sums paid CONTRACTOR by COUNTY pursuant to this Contract. Payment of taxes as required by law is the sole responsibility of CONTRACTOR.

X. REPORTS AND INSPECTIONS

- A. CONTRACTOR agrees to submit to the COUNTY the following reports at the times prescribed below. Failure to submit required reports may be considered a breach of this contract and may result in the COUNTY withholding payment until the required reports are submitted and/or until invocation of the Corrective Action procedures in Section XIV (Corrective Action).
- B. CONTRACTOR shall provide the County Administrative Officer (CAO) a quarterly report of services rendered by CONTRACTOR during the previous calendar quarter using the form attached to this Contract as Exhibit A and incorporated by this reference. The report shall be submitted within ten working days after the end of each calendar quarter and shall include:
1. The number of cases to which CONTRACTOR has been appointed during that quarter distinguished between misdemeanor, felony, juvenile, conservatorship and appeal.
 2. The number of open cases during that quarter distinguished between misdemeanor, felony, juvenile, conservatorship and appeal.
 3. The number of cases closed during that quarter distinguished between misdemeanor, felony, juvenile, conservatorship and appeal.
 4. Disposition of cases during that quarter by the following categories: Pleas, trials, diversions, dismissals, and other.
 5. The number of cases during that quarter in which CONTRACTOR has declared a conflict.
- C. Bar Complaints: CONTRACTOR shall immediately notify the COUNTY in writing if the CONTRACTOR becomes aware that a complaint lodged with the State Bar Association has resulted in the public or private reproof, suspension, or disbarment of any attorney providing services under this Contract. In the event of a report of a private reproof, COUNTY shall maintain confidentiality of said report to the extent permitted by law.
- D. Inspections: CONTRACTOR agrees to grant the COUNTY full access to materials necessary to verify compliance with all terms of this Contract. At any time, upon reasonable notice during business hours and as often as the COUNTY may reasonably deem necessary for the duration of the Contract and a period of five years thereafter, the CONTRACTOR shall provide to the COUNTY right of access to its facilities, to audit information relating to the matters covered by this Contract. Information that may be subject to any privilege or rules of confidentiality should be maintained by the CONTRACTOR in a way that allows access by the COUNTY without breaching such confidentiality or privilege. The CONTRACTOR agrees to maintain this information in an accessible location and condition for a period of not less than five years following the termination of this Contract, unless the COUNTY agrees in writing to an earlier disposition. Notwithstanding any of the above provisions of this paragraph, none of the constitutional, statutory, and common law rights and privileges of any client are waived by this Contract. The COUNTY will respect the attorney-client privilege and attorney work-product privilege.

XI. ESTABLISHMENT AND MAINTENANCE OF RECORDS

- A. CONTRACTOR shall prepare and maintain records sufficient to enable COUNTY and the courts to determine the cost of representing each person represented by CONTRACTOR, and CONTRACTOR shall provide the court with the total time of each case upon disposition or upon request of the court or the COUNTY.
- B. Records shall be maintained for a period of five years after termination of this Contract unless permission to destroy them is granted by the COUNTY.

XII. HOLD HARMLESS AND INDEMNIFICATION

- A. The COUNTY assumes no responsibility for the payment of any compensation, wages, benefits, or taxes by the CONTRACTOR or its employees or others by reason of the Contract. CONTRACTOR shall protect, indemnify, and save harmless the COUNTY, its officers, agents, and employees from and against any and all claims, costs, and losses whatsoever, occurring or resulting from CONTRACTOR's failure to pay any compensation, wages, benefits or taxes except where such failure is due to the COUNTY'S wrongful withholding of funds due under this Contract.
- B. CONTRACTOR agrees that it is financially responsible and liable for and will repay the COUNTY for any material breaches of this contract including but not limited to misuse of Contract funds due to the negligence or intentional acts of the CONTRACTOR, its employees, representatives or agents.
- C. CONTRACTOR shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from or in connection with, the performance of this Contract by CONTRACTOR, or its agents, officers, or employees. CONTRACTOR's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, damage or destruction to tangible or intangible property, including the loss of use. CONTRACTOR's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other costs that are caused in whole or in part by any act or omission of a CONTRACTOR, its agents, employees, supplier, or anyone directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

CONTRACTOR's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Contract for CONTRACTOR to procure and maintain a policy of insurance.

CONTRACTOR shall not claim, and/or do hereby knowingly and voluntarily waive, any right to defense or indemnification by COUNTY as a COUNTY employee or officer.

XIII. INSURANCE

Certificates of insurance and requested endorsements, for all stated insurances, shall be provided to the Mono County Risk Management at least ten (10) days prior to the start of services to be performed by the CONTRACTOR.

- A. Automobile Liability. CONTRACTOR shall provide automobile liability insurance with limit no less than \$250,000 per accident for bodily injury and \$100,000 for property damage.
- B. Professional Liability Insurance. CONTRACTOR shall provide professional liability insurance in the amount of not less than one million dollars (\$1,000,000.00) each occurrence/one million (\$1,000,000.00) policy aggregate. Proof of such insurance shall be provided to County at least ten (10) days prior to the start of any work by CONTRACTOR. If professional liability coverage is written on a claims-made form:

1. The "retro Date" must be shown, and must be before the date of the contract or the beginning of contract work, whichever is first.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work.
3. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a "Retro Date" prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

Any deductibles or self-insured retentions must be declared and approved by Mono County Risk Manager. If possible, the Insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to Mono County, its officials, officers, employees and volunteers; or the CONTRACTOR shall provide evidence satisfactory to Mono County Risk Manager guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

XIV. CORRECTIVE ACTION

If the CAO reasonably believes that a material breach of this Contract has occurred, warranting corrective action, the following sequential procedure shall apply:

1. The CAO will notify the CONTRACTOR in writing of the nature of the breach.
2. The CONTRACTOR shall respond in writing within five working days of receipt of such notification, which response shall present facts to show no breach exists or indicate the steps being taken to correct the specified deficiencies, and the proposed completion date for bringing the Contract into compliance.

3. The CAO will notify the CONTRACTOR in writing of the COUNTY'S determination as to the sufficiency of the CONTRACTOR'S corrective action plan. The determination of the sufficiency of the CONTRACTOR'S corrective action plan will be at the discretion of the CAO and will take into consideration the reasonableness of the proposed corrective action in light of the alleged breach, as well as the magnitude of the deficiency in the context of the Contract as a whole. In the event the CONTRACTOR does not concur with the determination, the CONTRACTOR may request a review of the decision by the Board of Supervisors. COUNTY agrees that it shall work with the CONTRACTOR to implement an appropriate corrective action plan accepted by the CAO or, if review has been requested, by the Board of Supervisors.

In the event that CONTRACTOR under this Contract does not respond to the CAO's notification within the appropriate time, or the CONTRACTOR'S corrective action plan for a substantial breach is determined by the CAO, following review by the Board of Supervisors if requested to be insufficient, the COUNTY may commence termination of this Contract in whole or in part pursuant to Section XV (Termination and Suspension.)

In addition, the COUNTY reserves the right to withhold a portion of subsequent payments owed the CONTRACTOR which are directly related to the breach of the Contract until the COUNTY is satisfied that corrective action has been taken or completed as described in Section IX (Compensation and Method of Payment.)

XV. TERMINATION AND SUSPENSION

- A. COUNTY may terminate this Contract in whole or in part upon 15 days written notice to the CONTRACTOR in the event that the CONTRACTOR under this contract:
 1. Materially breaches any duty, obligation, or service required pursuant to this Contract;
 2. Engages in misappropriation of funds or misconduct as described in the Mono County Personnel System; or
 3. The duties, obligations, or services herein become illegal, or not feasible.

Before the COUNTY terminates this Contract pursuant to this Section XV, the COUNTY shall provide the CONTRACTOR written notice of termination, which shall include the reasons for termination and the effective date of termination. The CONTRACTOR shall have the opportunity to submit a written response to the COUNTY within ten working days from the date of the COUNTY'S notice. If the CONTRACTOR elects to submit a written response, the CAO will review the response and make a determination within ten days after receipt. In the event the CONTRACTOR does not concur with the determination of the CAO, the CONTRACTOR may request a review of the decision by the County Board of Supervisors. In the event the County Board of Supervisors reaffirms termination, the Contract shall terminate in ten days from the date of the final decision of the County Board of Supervisors. The Contract will remain in full force pending such termination. CONTRACTOR understands and agrees that any such decision shall be

final and binding and shall not be appealable nor otherwise subject to judicial review of any kind.

- B. CONTRACTOR reserves the right to terminate this Contract with cause with 15 days written notice should the COUNTY materially breach any duty, obligation or service pursuant to this Contract. Prior to such termination, CONTRACTOR shall provide COUNTY with written notice of the alleged breach and COUNTY shall have 30 days in which to cure the breach. In the event that the CONTRACTOR terminates this Contract for reasons other than good cause resulting from a material breach of this Contract by the COUNTY, the CONTRACTOR shall be liable for damages, including the excess costs of the procurement of similar services from another source, unless it is determined by the CAO that (i) no default actually occurred, or (ii) the failure to perform was without the CONTRACTOR'S control, fault or negligence.
- C. COUNTY or CONTRACTOR may terminate this Contract at will and without cause by providing one hundred and eighty (180) days' written notice to the other party of the intent to terminate.
- D. Following termination or suspension of this Contract, the CONTRACTOR shall continue to represent clients that were previously assigned, at an hourly rate determined by the Courts, and the COUNTY will be liable for any payments owed for the completion of that work. The CONTRACTOR shall remit to the COUNTY any monies paid for cases not yet assigned or work not performed under the Contract. The CAO may request that the CONTRACTOR attempt to withdraw from any case assigned and not completed, and in that event, CONTRACTOR shall use best efforts to so withdraw. Should a court require, after the CONTRACTOR has attempted to withdraw, the appearance of counsel from the CONTRACTOR on behalf of any client previously represented by the CONTRACTOR where such representation is no longer the obligation of the CONTRACTOR pursuant to the terms of this Contract, the COUNTY will honor payment to the CONTRACTOR upon judicial verification that continued representation is required.
- E. In the event that termination is due to misappropriation of funds, non-performance of the scope of services, or fiscal mismanagement, the CONTRACTOR shall return to the COUNTY those funds, unexpended or misappropriated, which, at the time of termination, have been paid to the CONTRACTOR by the COUNTY.
- F. Otherwise, this Contract shall terminate on the date specified herein, and shall be subject to extension as provided in Section I.
- G. The ability of the COUNTY to enter into this Contract is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources or is not appropriated, at any time during the term of this Contract County has the option without incurring any penalty or breaching this Contract to terminate, reduce, or modify this Contract, or any of its terms within ten (10) days of notifying CONTRACTOR of the termination, reduction, or modification of available

funding. Upon receipt of such notice, CONTRACTOR may at its option terminate this Contract without incurring any penalty or breaching the Contract.

XVI. FINANCIAL RESPONSIBILITY

The CONTRACTOR shall remain financially solvent during the term of this Contract. Voluntary or involuntary bankruptcy proceedings by the CONTRACTOR, when not released within ten days, shall constitute a material breach of this Contract. Bankruptcy by the CONTRACTOR under this contract shall constitute a ground for termination of the Contract.

XVII. ASSIGNMENT/SUBCONTRACTING

- A. The CONTRACTOR shall not assign or subcontract any portion of this Contract without consent of the COUNTY. Any consent sought must be requested by the CONTRACTOR in writing not less than ten days prior to the date of any proposed assignment or subcontract, provided that this provision shall not apply to special appearances made on behalf of the CONTRACTOR under this Contract while he or she is on vacation or otherwise unavailable for limited periods of time. Any individuals entering into subcontract (with written approval of COUNTY) shall meet all experience requirements imposed by this Contract. COUNTY shall be notified of any subcontracts which are renewed, extended or repeated at any time throughout the Contract. This provision is not intended to prohibit another attorney from making a special appearance on behalf of the CONTRACTOR under this contract.
- B. The term "Subcontract" as used above shall not be read to include the purchase of support services that do not directly relate to the delivery of legal services under the Contract to clients of the CONTRACTOR.
- C. Each subcontractor providing services under this Contract, prior to first providing such services, shall be required to sign a contract under which, at a minimum, the subcontractor agrees to comply with and be bound by the terms and conditions of this Contract. Such contract shall be in a form acceptable to the COUNTY. A fully executed copy of such contract shall be provided to the CAO before a subcontractor may begin to provide services under this Contract. The COUNTY shall have the right to interview all subcontractors before subcontractor may begin to provide services, and may reject any subcontractor which the COUNTY reasonably deems to be not qualified. Upon request of the CONTRACTOR, the COUNTY shall state in writing the reasons upon which it makes such determination, which may not be arbitrary or capricious.

XVIII. NOTICES

Whenever this Contract provides for notice to be provided by one party to another, such notice shall be in writing and addressed as follows:

If to CONTRACTOR:

If to COUNTY:
County Administrative Officer
PO Box 696
Bridgeport, CA 93517
smoberly@mono.ca.gov

With a copy to:
Mono County Counsel
PO Box 2415
Mammoth Lakes, CA 93546
ssimon@mono.ca.gov

IXX. TRANSFER OF CASES UPON TERMINATION OF CONTRACT

Upon termination of this Contract, or upon expiration or pursuant to Section XV, CONTRACTOR shall cooperate fully with the COUNTY and with such persons as may be designated by COUNTY to succeed CONTRACTOR in order to effect the orderly transition of legal services from CONTRACTOR to his or her successor. The cooperation specified in this paragraph includes, but is not limited to, the releasing of such files, papers, and records in good order as may be required in order to carry out the provisions of this contract and any subsequent Contract with a successor CONTRACTOR and to ensure the continued adequate legal representation of persons eligible for services herein set forth.

XX. NONDISCRIMINATION

During the performance of this Contract, neither the CONTRACTOR nor any party subcontracting with the CONTRACTOR under the authority of this Contract shall discriminate on the basis of race, color, sex, religion, national origin, creed, marital status, age, sexual orientation, or the presence of any sensory, mental, or physical handicap in employment or application for employment or in the administration or delivery of services or any other benefit under this Contract, nor on any other basis prohibited by state or federal law in effect during this Contract.

The CONTRACTOR shall comply fully with all applicable federal, state, and local laws, ordinances, executive orders, and regulations which prohibit such discrimination.

XXI. CONFLICT OF INTEREST

No officer, employee, or agent of the COUNTY, or the State of California, or the United States Government, who exercises any functions or responsibility in connection with the planning and implementation of the program funded herein shall have any personal financial interest, direct or indirect, in this Contract, or CONTRACTOR. If required by state law or by the COUNTY's own conflict of interest code, CONTRACTOR shall comply with said laws and code, including but not limited to filing any required statement of economic interests.

XXII. MISCELLANEOUS PROVISIONS

The parties agree that this Contract is the complete expression of the terms hereto and any oral representations of understanding not incorporated herein are excluded. No other

representations, covenants, undertakings or other prior or contemporaneous agreement, oral or written, respecting such matters, which are not specifically incorporated herein, shall be deemed in any way to exist or bind any of the parties hereto. The parties, and each of them, further acknowledge that they have not executed this Contract in reliance on any such promise, representation or warranty.

Both parties recognize that time is of the essence in the performance of the provisions of this Contract.

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of a breach of any provision of this Contract shall not be deemed to be a waiver of any other subsequent breach and shall not be construed to be a modification of the terms of this Contract unless stated to be such through written mutual agreement of the parties, which shall be attached to the original Contract.

This Contract shall be binding upon the parties and upon their heirs, administrators, representatives, executors, successors and assigns, and shall inure to the benefit of the parties and all related persons or entities, and each of them, and to their heirs, administrators, representatives, executors, successors and assigns.

The parties hereto, and each of them, acknowledge that this Contract is executed voluntarily by all of them, without duress or undue influence on the part or on behalf of any of them. The parties further acknowledge that they have been represented by counsel with respect to the negotiation and preparation of this settlement agreement or do hereby knowingly waive their right to do so, and that they are fully aware of the contents of this Contract and of its legal effect.

The parties have jointly participated in the preparation and drafting of this Contract. Thus, any ambiguity therein shall not be construed in favor of or against either party.

EXECUTION

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS THROUGH THEIR AUTHORIZED REPRESENTATIVES THIS ____ DAY OF _____, _____.

COUNTY OF MONO

CONTRACTOR

By: _____

By: _____

Dated: _____

Dated: _____

APPROVED AS TO FORM:

County Counsel

APPROVED BY RISK MANAGEMENT:



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: Public Works

TIME REQUIRED 10 minutes

PERSONS APPEARING BEFORE THE BOARD Paul Roten, Public Works Director

SUBJECT Mono County Jail Facility - Update

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Presentation by Paul Roten regarding the progress on Mono County Jail construction on Twin Lakes Road in Bridgeport.

RECOMMENDED ACTION:

None, informational only.

FISCAL IMPACT:

None.

CONTACT NAME: Paul Roten

PHONE/EMAIL: 7607090427 / proten@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
Staff Report
Jail Update

History

Time	Who	Approval
7/24/2023 11:55 AM	County Counsel	Yes
7/25/2023 1:39 PM	Finance	Yes
7/25/2023 1:47 PM	County Administrative Office	Yes



MONO COUNTY DEPARTMENT OF PUBLIC WORKS

POST OFFICE BOX 457 • 74 NORTH SCHOOL STREET • BRIDGEPORT, CALIFORNIA 93517
760.932.5440 • Fax 760.932.5441 • monopw@mono.ca.gov • www.monocounty.ca.gov

Date: August 1, 2023
To: Honorable Chair and Members of the Board of Supervisors
From: Paul Roten, Public Works Director
Re: Mono County Adult Detention Facility Update

Background:

With Senate Bill (SB) 844, Mono County was awarded a \$25,000,000 grant to assist in replacing the Mono County Jail in Bridgeport. The following is a rough overview of the process since that time.

February 2017 - The Board selected the option to construct a new facility at the Old Hospital. This location required the demolition of the existing abandoned hospital.

February 2021 – Mono County established a contract with Lionakis for Architectural Services.

February 2022 – Mono County established a contract with Kitchell for Construction Management Services.

November 2022 – Mono County initiated the bid process for Hazardous Material Abatement and Monitoring.

April 2023 – After the record winter of 2022/2023, Hazardous Material Abatement and Monitoring tasks began.

June 2023 – Mono County received approval by the California State Department of Finance to continue the design process.

June 2023 – With oversight by the State Fire Marshall, Bridgeport Utility District performed an Onsite flow test which showed that the existing water system can support the fire flow requirements of the new facility.

July 2023 – Mono County initiated the bid process for Hospital Demolition and Utility Relocation, with bid opening on July 26th at 3:00 pm.

Discussion:

The following is a rough overview of the planned schedule moving forward: (Mono County does not have control over Board of State and Community Corrections or the State Fire Marshalls office, both of which have large parts in this project. The schedule is also subject to change due to weather, or other factors.)

July 2023 – Mono County beginning work on Site Compaction bid package.

July 2023 – Lionakis and Kitchell will continue work on the Construction bid package.

August/September 2023 – establish contract for site demolition and utility relocations and begin work.

October/November 2023 – Establish contract for and begin Site Compaction process

November 2023 to March 2024 – Begin Bid Process for Adult Detention Facility Construction.

Spring/Summer 2024 – Begin Construction on Mono County Adult Detention Facility

December 2025 – Begin Occupancy of Facility by Mono County Sheriffs in preparation for inmates.

Please contact me at 760-709-0427 if you have any questions regarding this item.

Respectfully submitted,

Paul Roten

Mono County Jail Update

July 11, 2023



LIONAKIS



Mono County Jail Update

- ▶ **Demolition of old Mono General Hospital Building**
- ▶ Board of State and Community Corrections key dates
- ▶ Project Schedule
- ▶ Design update
- ▶ Budget update
- ▶ Project Financing
- ▶ Public Outreach
- ▶ Next steps

Demolition of old Mono General Hospital Building

- ▶ Why this site was selected
 - ▶ County-owned
 - ▶ Building no longer in use due to extreme utility and maintenance costs
 - ▶ Not enough room at existing site
- ▶ Schedule
- ▶ Challenges
 - ▶ Lead
 - ▶ Asbestos

LRB Process

STATE LEASE REVENUE BOND FINANCING

Cumbersome Process and Deliverables

- ▶ ~~Project Establishment~~
- ▶ ~~Preliminary Plans (Design Development)~~
- ▶ **Construction Documents**
- ▶ **Ground Lease and Agreements**
- ▶ Authorization to Bid
- ▶ Bid Tabulation and Approval
- ▶ Issuance of Notice to Proceed
- ▶ Construction and Closeout

LRB Process

State Agencies Involved in Process:

- ▶ Board of State and Community Corrections (BSCC)
- ▶ State Department of General Services (DGS Real Estate Services Branch)
- ▶ Department of Finance (DOF) and State Public Works Board (SPWB)
- ▶ Office of the State Fire Marshal

Board of State and Community Corrections

Key Milestones

▶ ~~Project Establishment~~

- ~~Established September 15, 2022 (State Public Works action item)~~

▶ ~~Preliminary Plans~~

- ~~Prior anticipated approval of February 13, 2023 (packaged November 2022)~~
- ~~Anticipated approval end of April 2023 (current update)~~

➤ Working Drawings

- Approvals from agencies and DOF
- Ground Lease approval
- DOF approval to Bid

➤ Bidding

- Bids and conditional BOS approval
- DOF issuance of Notice to Construct

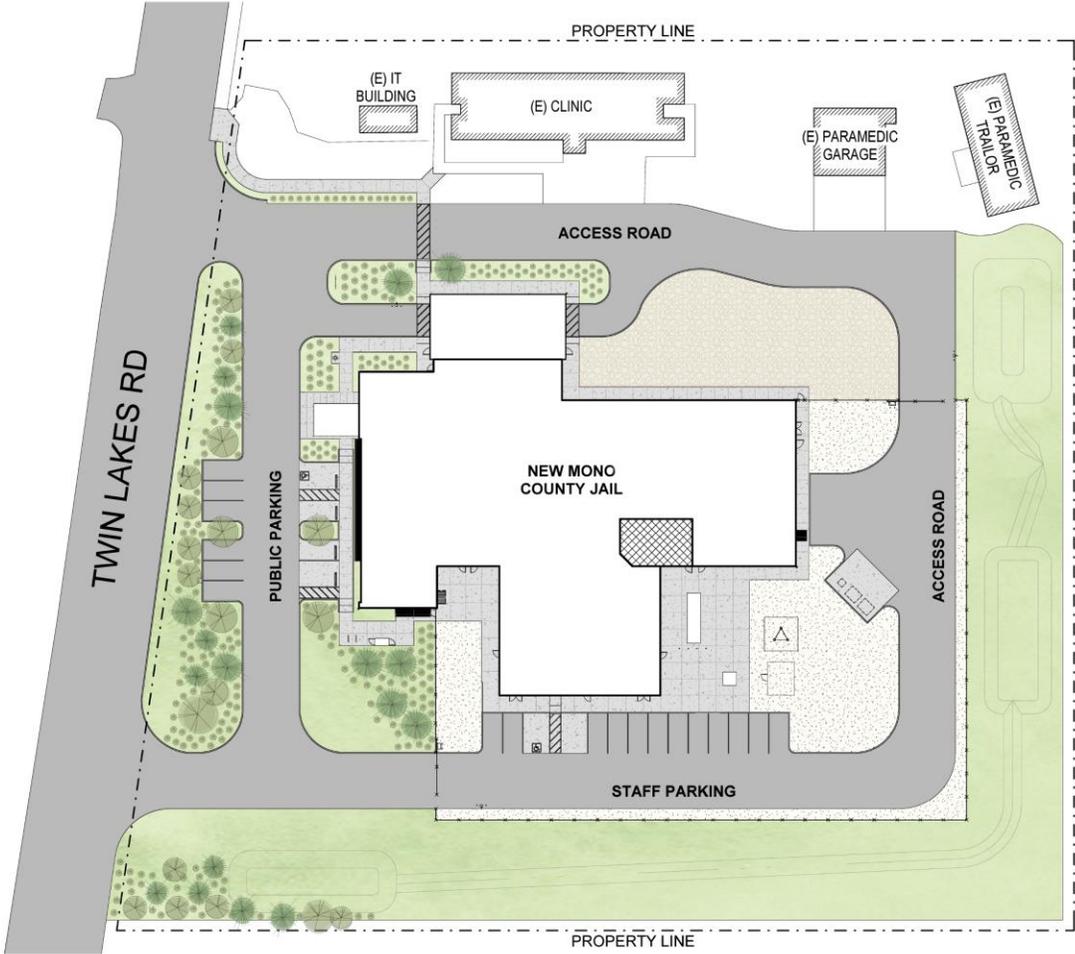
➤ Construction

Design update



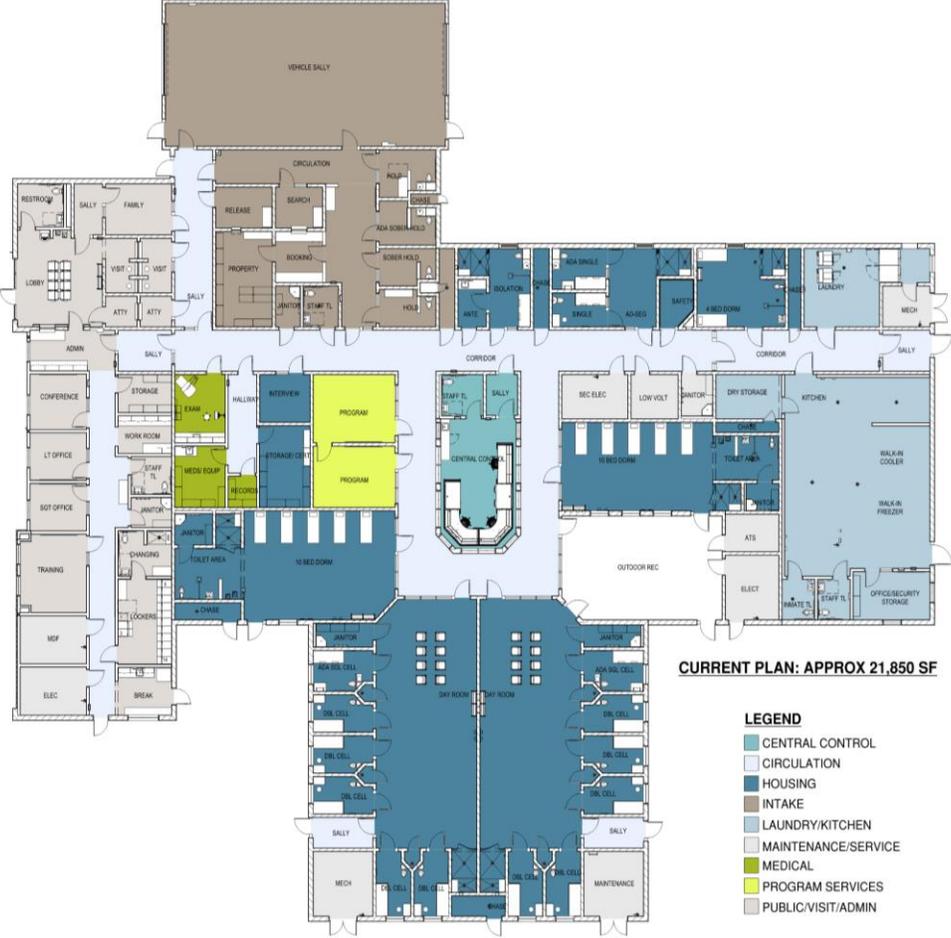
Site Location

Design update



Facility Site Plan

Design update



Floor Plan

Design update



Public Front/Entry

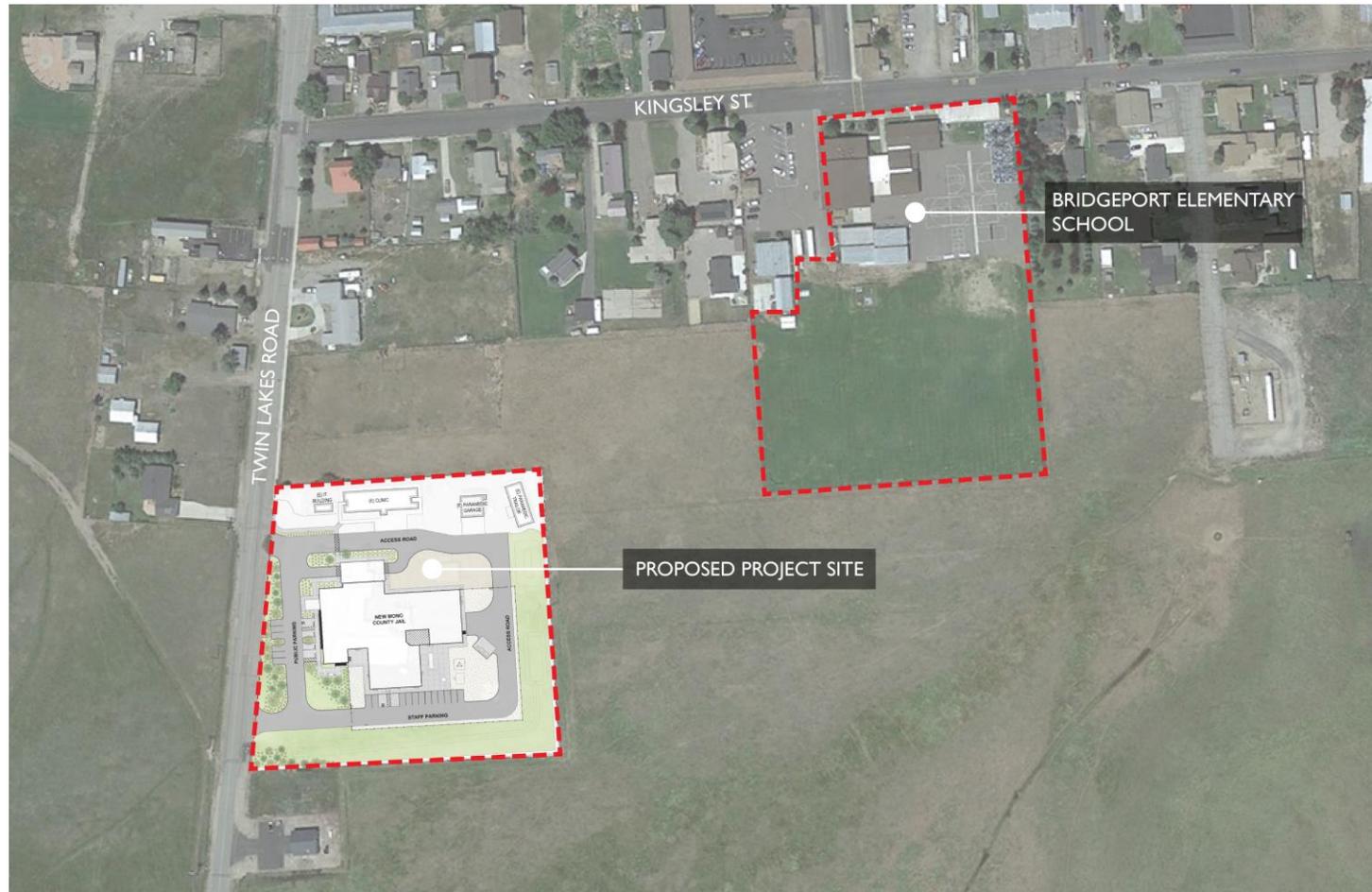


Design update



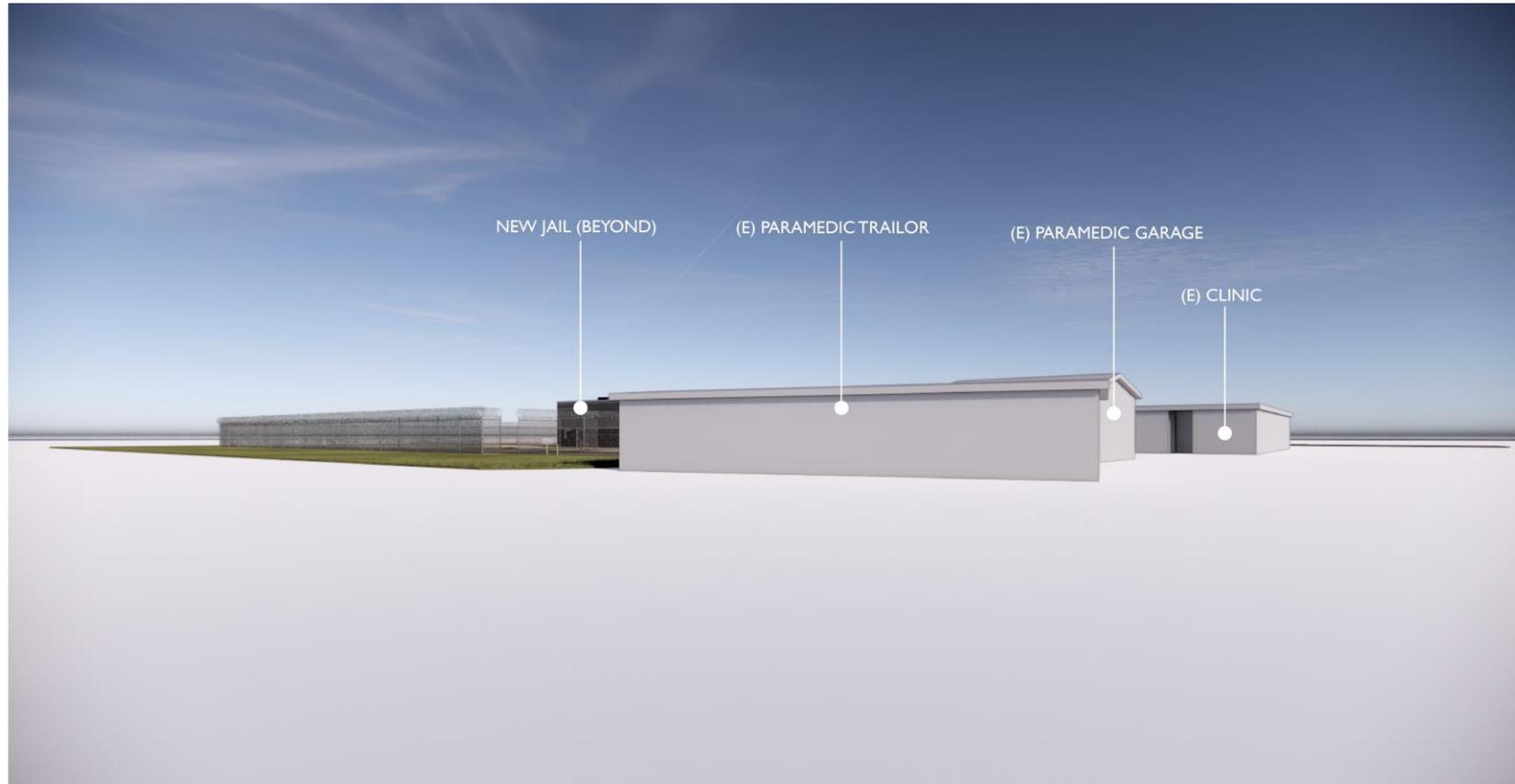
Secure/Controlled Access

Public Response



Location and Adjacency to School

Public Response



View from Distant School

Significance of this Project

- Commitment of \$25 Million SB863 Award from State
- Real Value to County Justice System
 - Replacement of Antiquated Facility
 - Dedicated Program Space - Opportunity for meaningful Programs to reduce Recidivism
 - Modern Booking, Kitchen and Laundry
 - Safety and Security
 - Dedicated space for Inmate Classifications and Health Isolation
 - Provides much needed space for Medical and Mental Health Services
 - More Normative Environment to support Rehabilitation
 - Dispatch and much needed Administrative Space
 - Civic and Public Front
- Unlikely future State Funding for County Jails

Next Steps

- ▶ ~~Approval of Preliminary Plans~~
- ▶ Make Site Ready
 - Demolition of old Hospital
 - Improvement of poor soils
- ▶ Review and Approval of Working Drawings
- ▶ Execution of Ground Lease
- ▶ Bidding
 - Conditional Award
- ▶ DOF Approval and Notice to Proceed
- ▶ Construction

Questions?





**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: Information Technology

TIME REQUIRED 30 minutes

PERSONS APPEARING BEFORE THE BOARD Milan Salva, Interim IT Director

SUBJECT Department Overview - Information Technology

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Presentation by Milan Salva, Interim IT Director, to update the Board of Supervisors and public on Information Technology operations, goals, and objectives.

RECOMMENDED ACTION:

None, informational only. Provide any desired direction to staff.

FISCAL IMPACT:

None.

CONTACT NAME: Milan Salva

PHONE/EMAIL: 760-924-1696 / msalva@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p> Presentation</p>

History

Time	Who	Approval
7/17/2023 5:26 PM	County Counsel	Yes
7/24/2023 8:50 AM	Finance	Yes
7/24/2023 1:38 PM	County Administrative Office	Yes



Information Technology

August 1st, 2023

Milan Salva

Interim Information Technology Director – Mono County

Department Mission: "Empower our community by providing exceptional technology and customer service."

Vision:

- Deliver exceptional customer service
- Provide a reliable modern infrastructure
- Improve business processes through technology
- Embrace and advance Best Practices
- Seek out collaborative solutions
- Value IT staff development, knowledge, and individual needs

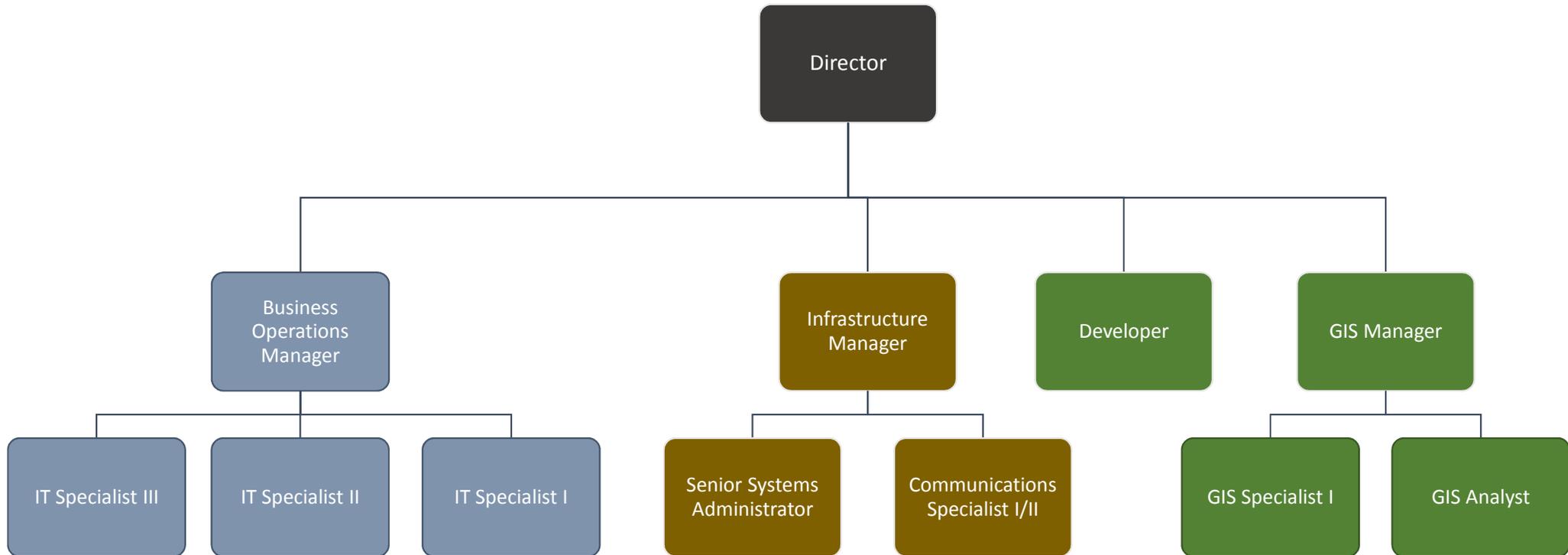
Department Services Overview:

- **The Mono County IT Department is a Tier 2 - Essential Services department which provides the core technology, data, and communications infrastructure for Mono County and the Town of Mammoth Lakes.**
- **The Department is comprised of 12FTE employees who are spread between three business lines: Infrastructure, Services, and Geographic Information System (GIS)/Applications.**
- **In addition to the core IT services which are provided to our users, the IT Department is responsible for management of the Radio & Communications Division (151) which is primarily focused on maintaining and improving Mono County's Public Safety & Administration Land-Mobile Radio System (LMRS).**



INFORMATION TECHNOLOGY

Departmental Organizational Chart



DIVISIONS

- Services
- Infrastructure
- Applications / GIS

Services

- Staff: Milan Salva – Jami Jerrett – Cara Isaac – Berlin Del Aguila
- Help desk and onsite support – 2,711 support requests were handled in FY 22/23
- End user equipment lifecycle replacement
- Training and tutoring
- On/Offboarding
- Project management – 43 projects onboarded in FY 22/23

Infrastructure

- Staff: Kirk Hartstrom – Brahm Goodis
- Tier 2 support
- Data center operations (storage, power, rack spaces, monitoring, etc.)
- Network connection management and monitoring
- Security, monitoring and compliance
- Life-cycle replacement of all technology infrastructure
- First responder infrastructure

GIS & Applications

- Staff: Olivia Hollenhorst – Sarah Moore – Eric Miller – Joel Hickok
- GIS and Application Development
 - Parcel viewer
 - QuickBase
- Emergency Management Applications
 - AFN (Access and Functionality Needs)
 - READY Mono
- Project level support and work efforts

Radio & Communications

- Staff: Eric Bucklin
- Developing and maintaining an inventory of all radio and communication assets
- Establishing and overseeing a procurement and replacement program for radios
- Coordinating annual maintenance of radios
- Maintenance of radio repeater infrastructure
- Upgrade of overall radio system – CRIS (California Radio Interoperable System)

FY 22/23 Accomplishments

- Strengthened Security Posture
 - Security Operations Center (SOC) – 52,757 events resulted in 57 tickets/responses
- Mono Lake Conference Room Audio/Visual in the Civic Center
- Supported the implementation of new critical business systems in Probation, Clerk-Recorder, Behavioral Health, and Laserfiche as an enterprise record management system
- LATA (Local Agency Technical Assistance) Grant
- Improved network resiliency with back up internet circuits

FY 23/24 Goals

- Continue to enhance existing broadband access/affordability in Mono County by leveraging FFA grant and other grant opportunities.
- Further staff capability through hiring, retention, training, and development
- Complete the implementation of the statewide CRIS radio system in Mono County
- Implement door access controls on all main county buildings
- Support the implementation of new critical business systems in Clerk-Recorder, and Behavioral Health.

Questions



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

Departments: Community Development

TIME REQUIRED 20 minutes

SUBJECT Department Overview - Community Development

PERSONS APPEARING BEFORE THE BOARD

Wendy Sugimura, Community Development Director; Brent Calloway, Principal Planner; Nick Criss, Compliance Officer

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Presentation regarding an overview of Community Development Department functions and services.

RECOMMENDED ACTION:

None, informational only. Provide any direction to staff.

FISCAL IMPACT:

None.

CONTACT NAME: Wendy Sugimura

PHONE/EMAIL: 760-924-1814 / wsugimura@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p>No Attachments Available</p>
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History

Time	Who	Approval
7/17/2023 3:44 PM	County Counsel	Yes
7/24/2023 8:49 AM	Finance	Yes
7/24/2023 1:38 PM	County Administrative Office	Yes



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

TIME REQUIRED

SUBJECT Closed Session - Labor Negotiations

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Mary Booher, Stacey Simon, Janet Dutcher, Jack Conry, and Oliver Yee. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39 - majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Correctional Deputy Sheriffs' Association. Unrepresented employees: All.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p>No Attachments Available</p>
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History

Time	Who	Approval
7/17/2023 6:27 PM	County Counsel	Yes
6/22/2023 1:47 PM	Finance	Yes
7/24/2023 1:38 PM	County Administrative Office	Yes



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

TIME REQUIRED

SUBJECT Closed Session – Real Property
Negotiation

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Government Code section 54956.8. Property Address: 34 Kirkwood Street, Bridgeport, CA. County Negotiator: Mary Booher. Negotiating Parties: Brianna Brown and County of Mono. Under Negotiation: Price, terms and conditions.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p>No Attachments Available</p>
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History

Time	Who	Approval
7/26/2023 9:40 AM	County Counsel	Yes
7/27/2023 9:08 AM	Finance	Yes
7/27/2023 11:41 AM	County Administrative Office	Yes



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

TIME REQUIRED

SUBJECT Closed Session – Real Property
Negotiation

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Government Code section 54956.8. Property Address: 264 Highway 182, Bridgeport, CA County Negotiator: Mary Booher. Negotiating Parties: Garth Moore and County of Mono. Under Negotiation: Price, terms and conditions.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p>No Attachments Available</p>
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History

Time	Who	Approval
7/26/2023 9:40 AM	County Counsel	Yes
7/27/2023 9:09 AM	Finance	Yes
7/27/2023 11:41 AM	County Administrative Office	Yes



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

TIME REQUIRED

SUBJECT Closed Session - Existing Litigation

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION. Paragraph (1) of subdivision (d) of Government Code section 54956.9. Name of case: *Villanueva v. Mammoth Unified School District et al.*, Mono County Superior Court Case No.: 22UCM99.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p>No Attachments Available</p>
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History

Time	Who	Approval
7/24/2023 11:54 AM	County Counsel	Yes
6/22/2023 1:47 PM	Finance	Yes
7/24/2023 1:38 PM	County Administrative Office	Yes



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE August 1, 2023

TIME REQUIRED

SUBJECT Closed Session - Public Employee
Evaluation

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: Interim County Administrative Officer.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

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No Attachments Available

History

Time	Who	Approval
7/17/2023 6:25 PM	County Counsel	Yes
6/22/2023 1:48 PM	Finance	Yes
7/24/2023 1:38 PM	County Administrative Office	Yes